

Wadden Sea Board

WSB 6
5 October 2012
CWSS



Agenda Item:	5
Subject:	MSFD
Document No.	WSB 6/5-5
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Submitted by:	TG-M

Attached is an overview of the national implementation of the Marine Strategy Framework Directive, as requested by the WSB telephone conference of 28 June 2012

Proposal	The meeting is invited to note the information
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General:

Denmark and Germany have established a landward limit for the MSFD and this is established in National Legislation. Denmark and Germany use the Mean high water level as landward limit. Transitional water bodies according to the WFD are excluded from the scope of MSFD within Germany; Denmark has no transitional water bodies.

The Netherlands question, if there is a need for establishing an MSFD landward limit.

A list of descriptors is in the **Annex**.

In Detail:**Denmark:**

The public consultation was finished 27 August. Next step is submission of the Marine Strategy and supporting reports to the EU commission by 15 October. The Danish Marine strategy and the reports accompanying the strategy can be found at <http://www.naturstyrelsen.dk/Lovstof/Hoeringer/Havstrategi.htm> (also English version)

The MSFD will be implemented in the Danish Wadden Sea conservation area by a delimitation stated in the strategy:

"Unless stated otherwise, the descriptions of good environmental status apply to the entire geographic area covered by the Marine Strategy Framework Directive, i.e. the marine waters up to 1 nautical mile from the straightened coastline (the base line). The geographic coverage of the Water Framework Directive extends out to the 1 nautical mile limit for nutrients and 12 nautical miles from the base line for chemicals. Where there is an overlap between the two directives, the Water Framework Directive applies, while the Marine Strategy Framework Directive applies to all areas that are not covered by the Water Framework Directive, e.g. marine litter, noise, and fish". (page 10 in the English version)

Germany

The public consultation phase has been finished in April. The reports on Art. 8 (Initial Assessment), Art. 9 (Determination of Good Environmental Status) and Art. 10 (Environmental targets) were submitted to the EU by 15th of July 2012 (<http://www.meeresschutz.info/index.php/berichte.html>).

The content of the reports must now be fed into the EU reporting sheets until 15th October 2012 or for HD and BD contents until the deadlines corresponding to the HD and BD formats and deadlines.

In parallel a monitoring programme for the MSFD is being developed, which must be finalised in 2014. The work includes a cross check with existing monitoring programmes and the introduction of new themes and issues (inter alia noise, alien species, litter, fish/shellfish). Starting point will be the current national monitoring handbook.

Also the work for the programmes of measures starts in parallel. A first concept is being prepared by end of 2012.

Germany has defined and established a landward limit for the implementation of the MSFD. The German Federal Water Act (Wasserhaushaltsgesetz, WHG) of 31 Juli 2009 (Federal Law Gazette – BGBl. 2009 I, p. 2585 ff) defines in § 3(2) “Coastal waters shall mean the sea between the coastline at mean high water or the seaward limits of the surface waters and the seaward limits of the coastal sea; the seaward limits of surface waters that are not Federal waterways shall be governed by the provisions of Land law;”¹

This definition has been devised for the purposes of implementing the Water Framework Directive (WFD). Most of the MSFD will be transposed by an amendment to the WHG. This amendment will not change the aforementioned definition so that it is also applicable for the purposes of the MSFD.

The Federal Waterways Act (WaStrG) defines in § 1 (2): Maritime waterways shall mean the areas between the coastline at mean high tide or the seaward limits of the inland waterways and the seaward limits of the coastal sea. Maritime waterways shall not include harbour entrances which are limited on one or both sides by training walls or moles, the seaward side of watercourses in coastal waters, structures for coastal defence, drainage or land reclamation, bathing facilities or the intertidal zones of beaches.

The limit has been set at the mean high water (MThw = mean tidal high water).

These criteria are established in national legislation. The German Federal Water Act (WHG) of 31 Juli 2009 (Federal Law Gazette – BGBl. 2009 I, p. 2585 ff), § 3(2) is applicable in combination with pertinent regulations of the Water Laws of the coastal Federal States Niedersachsen, Hamburg, Schleswig-Holstein (and Mecklenburg-Vorpommern in the HELCOM area) and pertinent Ordinances associated with these Water Laws.

The landward limit chosen for MSFD implementation correspond with the landward limit legally established in Germany for jurisdictional waters. The landward limit established for the MSFD correspond with the landward limit defined for coastal and/or transitional water bodies of the WFD within Germany and the established landward limit exclude the transitional water bodies of the WFD.

Germany applies all the eleven descriptors within the Wadden Sea.

¹ (Inofficial translation. Land law = Individual water laws of the Federal States (Länder). The original German text reads as follows: 2. Küstengewässer. das Meer zwischen der Küstenlinie bei mittlerem Hochwasser oder zwischen der seewärtigen Begrenzung der oberirdischen Gewässer und der seewärtigen Begrenzung des Küstenmeeres; die seewärtige Begrenzung von oberirdischen Gewässern, die nicht Binnenwasserstraßen des Bundes sind, richtet sich nach den landesrechtlichen Vorschriften

The Netherlands

Policy challenges

Based on an initial assessment of all listed descriptors, an overview of the established need for supplementary policy challenges and knowledge tasks is given. Until the final update of this initial assessment in 2017, the priorities in knowledge programming for the development of indicators, the programme of measures and updating of the Marine Strategy are as follows:

- Marine ecosystem: developing indicators, gathering knowledge about the effects of the key disruptive uses, including bottom trawling, and identifying these effects and any cumulative effects in different habitats and species, taking full advantage of existing international knowledge structures (BHD, WFD, OSPAR).
- Litter: studying the risks of microplastics, in particular.
- Underwater noise (impulse noise and background noise): the aim is to gather knowledge in order to be able to develop specific policy in the future, where necessary.
- Specification of the three core measures: researching the (cost) effectiveness of possible measures under the CFP for supplementary seabed protection and for litter, in preparation for the programme of measures, the draft of which is to be completed in the course of 2014.

Some procedural aspects on indicators and measures

Indicators have been established to monitor whether the targets and good environmental status are being achieved or whether adjustment of policy or measures is necessary. Indicators for some targets are still missing; they are being developed, need to be improved or will be added later. The monitoring programme will be completed in 2014.

Measures. The new policy challenges are the starting point for devising the most effective and cost- and implementation-efficient measures. A decision on the programme of measures will be taken in 2015. Implementation will start in 2016.

Delimitation

Geographical

The Dutch Marine Strategy relates to the Dutch part of the North Sea. This scope comprises the water, the seabed and the subsoil seaward of the base line from where the width of the territorial sea is measured (see map). The outer limit of the scope is defined by the international boundaries of the Dutch Continental Shelf (also the boundary of the Exclusive Economic Zone (EEZ)). The Oosterschelde, the Westerschelde and the Wadden Sea are beyond the scope of the Marine Strategy;

these areas are already fully protected under the Birds Directive and the Habitats Directive (together the BHD) and are, as such, designated Natura 2000 areas. They are also governed by the Water Framework Directive (WFD). This safeguards the ecological protection of these areas.

The fact that the Dutch part of the North Sea is part of the MSFD subregion of the North Sea – in the broad sense of the word and including the Kattegat and the English Channel – in the northeastern part of the Atlantic Ocean was taken into account when drafting the Marine Strategy.

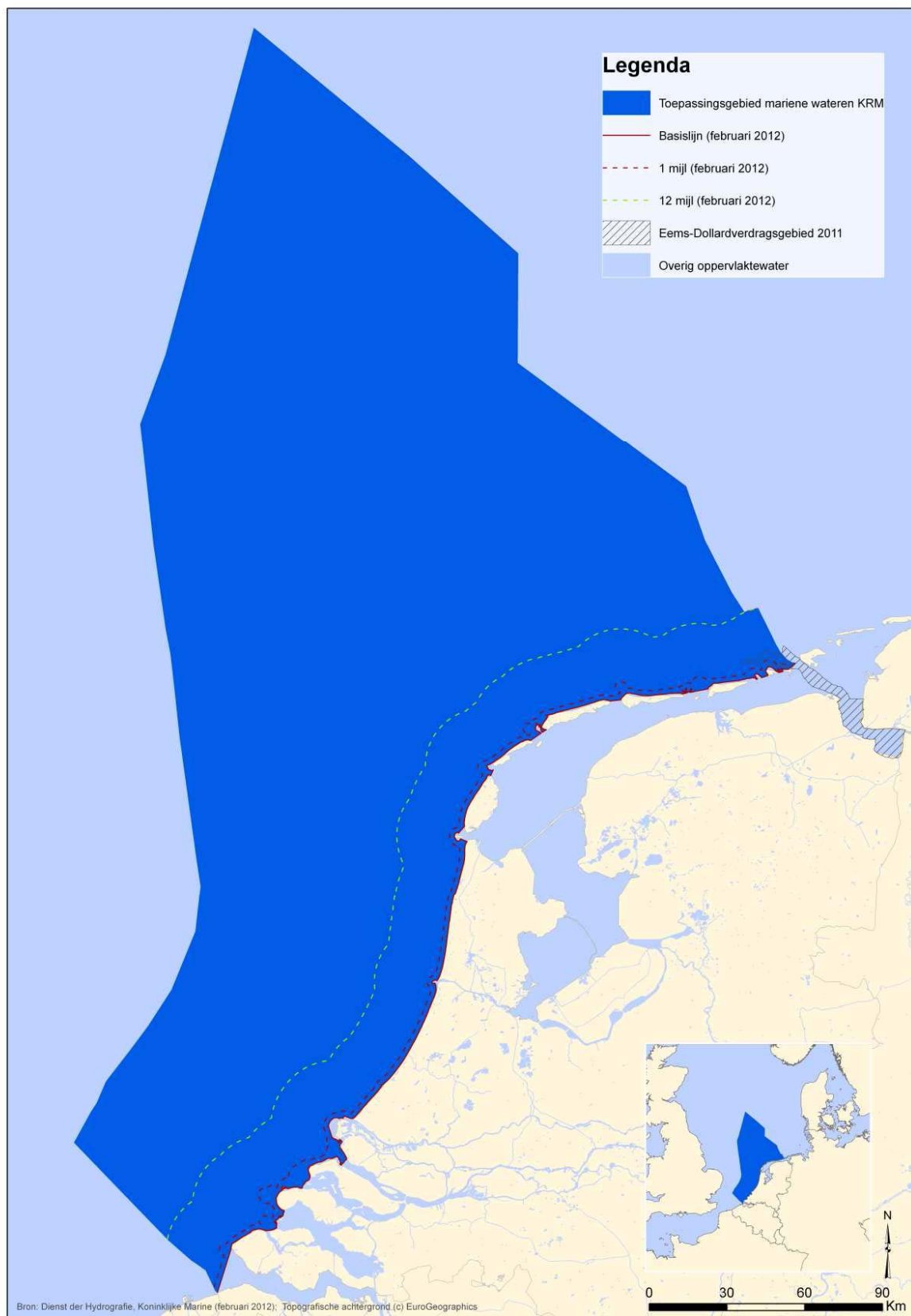
The territorial sea has been divided according to locality and province up to one kilometre seaward from the baseline; beyond that, the national government bears full responsibility

Cooperation within TWSC

Based on UNCLOS and Dutch legislation implementing UNCLOS, the waters of the Wadden Sea are internal waters. The MSFD does not apply to internal waters as defined under UNCLOS since these internal waters are situated on the landward side of the baseline of the territorial sea.

The Netherlands follow the pragmatic point of view; implementation of particular aspects of the environmental status not covered by the WFD or other EU legislation will be addressed within the framework of the Trilateral Waddensea Cooperation, not requiring the formal application of the MSFD to the Waddensea.

More information on the Marine Strategy for the Dutch part of the North Sea and the European Marine Strategy Framework Directive can be found on the website www.noordzeeloket.nl



Annex

Qualitative descriptors for determining good environmental status

1. Biological diversity is maintained. The quality and occurrence of habitats and the distribution and abundance of species are in line with prevailing physiographic, geographic and climatic conditions.
2. Non-indigenous species introduced by human activities are at levels that do not adversely alter the ecosystems.
3. Populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock.
4. All elements of the marine food webs, to the extent that they are known, occur at normal abundance and diversity and levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity.
5. Human-induced eutrophication is minimised, especially adverse effects thereof, such as losses in biodiversity, ecosystem degradation, harmful algae blooms and oxygen deficiency in bottom waters.
6. Sea-floor integrity is at a level that ensures that the structure and functions of the ecosystems are safeguarded and benthic ecosystems, in particular, are not adversely affected.
7. Permanent alteration of hydrographical conditions does not adversely affect marine ecosystems.
8. Concentrations of contaminants are at levels not giving rise to pollution effects.
9. Contaminants in fish and other seafood for human consumption do not exceed levels established by Community legislation or other relevant standards.
10. Properties and quantities of marine litter do not cause harm to the coastal and marine environment.
11. Introduction of energy, including underwater noise, is at levels that do not adversely affect the marine environment.