

BALTIC POWER Sp. z.o.o.

Baltic Power Offshore Wind Farm (Poland) Livelihood Restoration Framework (LRF)



Prepared by: Frédéric Giovannetti
3 Avenue de Grande Bretagne
69006 Lyon - France

With: Sotis Advisors
ul. Dąbrowszczaków 5
03-476 Warszawa – Polska
Anita Kulis and Katarzyna Auffret-Twardowska

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ACRONYMS:

EBRD	European Bank for Reconstruction and Development
ED	Environmental Decision
EDC	European Development Canada
EH	Euler Hermes Aktiengesellschaft
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EIFO	The Export and Investment Fund of Denmark
ESDD	Environmental and Social Due Diligence
ESAP	Environmental and Social Management Plan
GDEP	General Directorate for Environmental Protection
GIP	Good international practice
LRF	Livelihood Restoration Framework
LRP	Livelihood Restoration Plan
MO	Maritime Office (Gdynia)
ONS	Onshore Substation
OSS	Offshore Substation
OWF	Offshore Wind Farm
PAH	Project Affected Household
PAP	Project Affected Person
PR	Performance Requirement
PS	Performance Standard
RDEP	Regional Directorate for Environmental Protection

EXECUTIVE SUMMARY

PROJECT BACKGROUND AND SCOPE OF THIS DOCUMENT

Baltic Power Sp. z o.o. is a subsidiary of Polski Koncern Naftowy ORLEN and Northland Power NP BALTIC WIND B.V. (“Northland Power”). The planned project is the Baltic Power Offshore Wind Farm (OWF) and connection infrastructure, which consists of 76 wind turbines, up to 120 km of cable routes and 2 offshore substations, located in the maritime areas of the Republic of Poland in the Exclusive Economic Zone, as well as an onshore connection and sub-station located in the Choczewo municipality. The purpose of the planned project is to generate electricity using a renewable energy source – wind – with a total maximum power output of 1200 MW.

The Project site

Map and site characteristics



Source: Baltic Power

The Project has already passed several critical steps in the Polish permitting process, with last permits being currently processed by competent regulating organs of the Polish government.

This document is the Project’s Livelihood Restoration Framework. It was prepared in application of international resettlement and livelihood restoration standards. Key objectives of the LRF are the following:

- Present the legal framework associated to land compensation in Poland, and to restrictions zones at sea that might affect fisheries;
- Present a preliminary assessment of potential impacts to land and livelihoods of Project on-shore and off-shore facilities and associated restrictions;
- Present a preliminary baseline of livelihoods that could potentially be affected by the Project;
- Outline potential measures meant to avoid, minimise, mitigate and compensate livelihood impacts of Project on-shore and off-shore facilities;
- Provide the basis for consultations with fishers and other affected parties on potential avoidance, minimisation, mitigation and compensation measures;
- Present the path towards the further development of a Livelihood Restoration Plan (LRP).

LEGAL BACKGROUND

On-Shore

Land acquisition can either be amicable or guided by expropriation if no amicable transaction can be reached. The Polish expropriation law does not provide for livelihood restoration or property replacement.

Off-Shore

At this point, there are no provisions in Polish law for compensation of fishers affected by wind farms or other off-shore infrastructure projects. However, within the framework of the “Sector Deal” that was arrived at between key stakeholders in the Polish off-shore wind sector, consultations are taking place that should allow to agree on a Code of Good Practices, which amongst others will address safety restrictions, and specifically safety distances, applicable to fishers in the vicinity of wind farms, and potential compensation.

PROJECT LIVELIHOOD IMPACTS

On-Shore

The Project land needs for on-shore components are modest:

- 17 hectares for the underground line corridor from the landfall to the sub-station;
- 8 hectares of land for the sub-station.

Land acquisition for these on-shore components is complete: the line corridor is State-land (beach and forest), while for the sub-station, one private land plot was affected and was acquired in an amicable, willing buyer - willing seller transaction with one private landowner.

Off-Shore

Potentially affected fishermen are based mainly in the ports of Ustka, Łeba, Władysławowo, and to a much lesser extent in some other ports in Pomerania. Vessels based in these ports can be classified as follows:

- Small vessels (typically less than 12 metres in length), which fish in territorial waters close to the shore, and are unlikely to be affected by the off-shore wind farm;
- Larger vessels (typically in the range 30 to 40 metres in length), with the nearest of these mostly based in Władysławowo.

In addition, there are so-called “recreational fishing” vessels in all ports, which take tourists to fishing or sightseeing tours along the coast.

Fishing in the Project footprint itself could be affected, although catch baseline tends to suggest that the four fishing squares that are affected by the Project are amongst the least productive in the Eastern Baltic. Productive fishing grounds are either between the coast and the wind farm, or beyond it in the EEZ. Impacts are therefore more likely to be associated to restrictions of movement through the wind farm during construction and operations for those vessels fishing beyond the wind farm, and in the cable corridor during construction for those fishing between the coast and the wind farm.

The prohibition in 2019 of cod catches in the Eastern Baltic has been a game changer for fishers in the area. Before their prohibition, cod catches accounted for a very significant portion of fishers’ livelihoods in the Project area, in the order of 50% or more. Livelihoods associated with fishing (those of fishers and those of “recreational” fishers) have therefore suffered a dramatic blow following the prohibition of cod catches. Other species fished in the area are generally less valuable. As a result of the cod prohibition and the general adaptation of the fishery sector, the government and the EU are encouraging termination of fishing activity with various compensation measures.

The number of vessels whose movements are potentially affected by the maritime footprint of the Baltic Power offshore wind farm is probably in the order of 100 to 150 between the three ports of Łeba, Ustka (the two most affected), and Władysławowo (the largest of all three but least affected). In addition, about 50 recreational vessels are probably affected. Assuming an average crew of 3 to 5, the

number of affected jobs is probably in the range of 400 to 1000. This gives a very broad order of magnitude, which will need to be confirmed through consultations with fishers and their organisations.

In the current situation, given the prohibition of cod catches, impacts to a sector that is already very severely affected by other factors are of limited significance.

LIVELIHOOD RESTORATION MEASURES

On-Shore

Land acquisition for anticipated Project needs is complete. In the unlikely event that further land acquisition would become necessary, the Project shall seek to enter into willing buyer / willing seller transactions. If compulsory acquisitions have to be triggered per Polish expropriation provisions (most unlikely), negotiations will take place first in conformance with the law. Compensation will be at replacement cost based on an independent valuation, and livelihood restoration measures will be implemented, as well as specific assistance to vulnerable people if applicable.

Off-Shore

Off-shore exclusions and restrictions during construction and operations will be defined by the relevant Polish regulator (Maritime Office in Gdynia) and are not known at this point. Also, a consultative process is on-going between relevant stakeholders to arrive at a Code of Good Practices defining modalities of interaction between the offshore wind sector and fisheries, including further consultations, avoidance measures.

Baltic Power shall apply exclusions and restrictions defined by the regulator and Good Practices arrived at through the multi-stakeholder forum.

FURTHER CONSULTATION AND LRP

Once exclusions and restrictions have been defined by the Maritime Office in Gdynia and the Code of Good Practices has been finalized and disclosed, Baltic Power will engage wider in information and consultations at the local level with fishers to inform them about applicable measures, including compensation and livelihood restoration measures if applicable.

The baseline on vessels, catches, fishing grounds, crews for both fishing and recreational fishing vessels will be updated and a socio-economic survey will be conducted.

On the basis of this LRF, the final impacts, baseline surveys, agreed measures, and outcomes of consultation, a Livelihood Restoration Plan will be prepared and publicly disclosed by Baltic Power.

1. INTRODUCTION

The Project is seeking to secure financing from several commercial banks, along with potential participation from The European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), Export Development Canada (EDC), The Export and Investment Fund of Denmark (EIFO) and Euler Hermes Aktiengesellschaft (EH). All of them are collectively referred to as “Potential Lenders”.

Baltic Power has received necessary national-level environmental decisions. However, several Potential Lenders require the Project to implement measures in addition to the national law as one of the requirements to provide financing. The Potential Lenders’ requirements stem from their commitments to align with the [Equator Principles and relevant IFC Performance Standards](#), and [EBRD Performance Requirements](#).

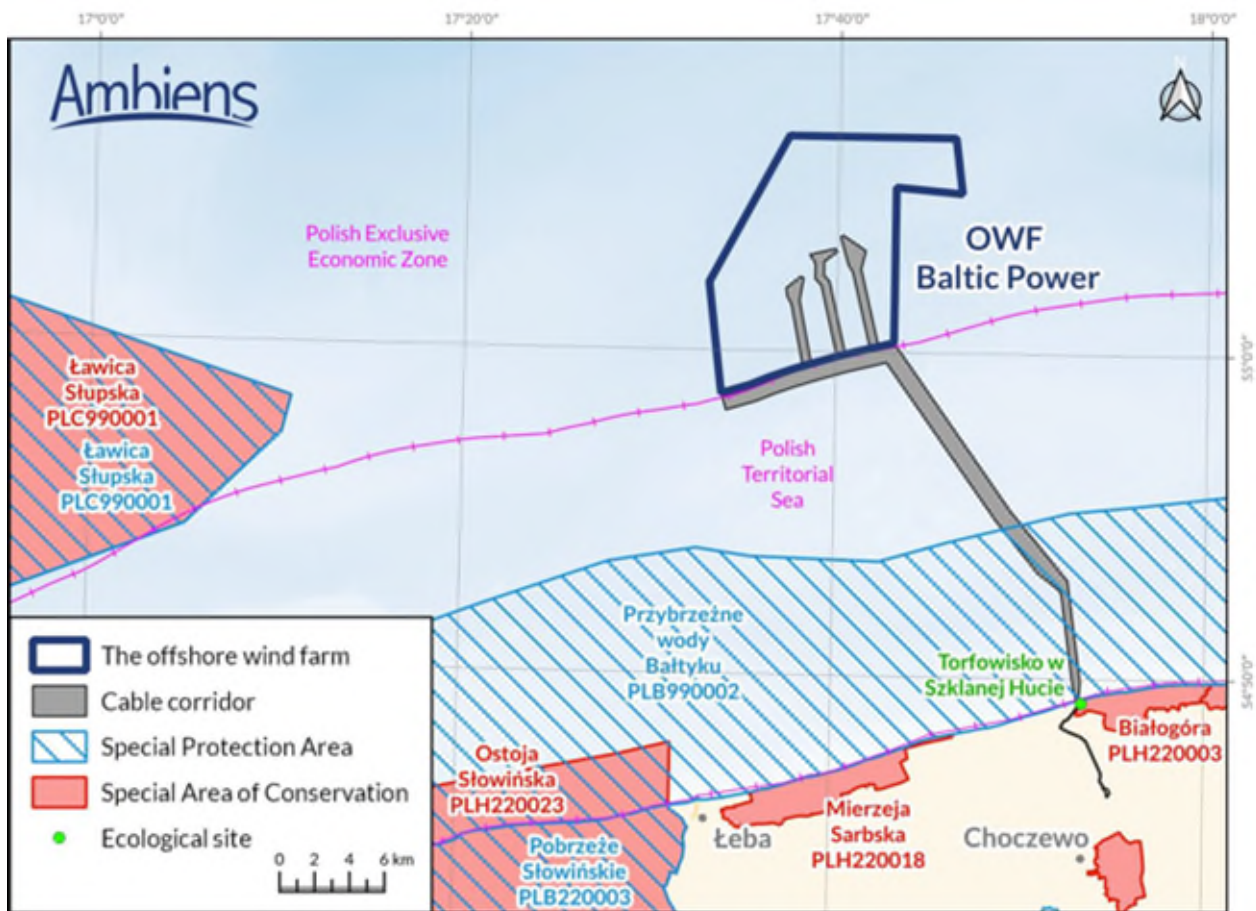
The Potential Lenders have categorised the Project as Category A, as constructing a large offshore wind farm of 1,200 MW may result in significant environmental and social impacts. The Potential Lenders have undertaken the Project’s Environmental and Social Due Diligence (ESDD) against their respective environmental and social policies. The Project is structured to meet the Potential Lenders’ Environmental and Social policies based on a review of the national environmental impacts assessment reports, permitting, additional activities undertaken by the Project in the preparation stage and the implementation of actions outlined in the Environmental and Social Action Plan (ESAP), which will be covenanted in the respective loan agreements with the final lending group (Final Lenders). Following the request of several Potential Lenders, this document has been prepared in order to present the Project’s LRF.

1.1 PROJECT BACKGROUND

1. Baltic Power Sp. z o.o. is a subsidiary of Polski Koncern Naftowy ORLEN and Northland Power NP BALTIC WIND B.V. (“Northland Power”). The planned project is the Baltic Power Offshore Wind Farm (OWF) and connection infrastructure. Its purpose is to generate electricity using a renewable energy source – wind – with a total maximum power output of 1200 MW. The Project consists of:
 - 76 wind turbines, up to 120 km of cable routes and 2 offshore substations, located in the maritime areas of the Republic of Poland in the Exclusive Economic Zone at a distance of approximately 23km from the shore, off the town of Łeba.
 - An onshore connection and sub-station located in the Choczewo municipality (Pomeranian voivodeship).

2. The following figure shows the location of Project offshore facilities and transmission line corridor:

Figure 1. Location of Project offshore facilities and transmission line corridor



Source: ESDD report, Ambiens

3. An Environmental Impact Assessment as per Polish and EU regulations is available and the Project has been permitted by the Polish Competent Authority (in the sense of the EU EIA directive). Annex 2 presents details on the permitting status of the Project.
4. The European Bank for Reconstruction and Development is considering finance to the Project. Because livelihoods could be affected by the Project construction and operations the EBRD has required from the Project further investigation into this issue and the preparation of a Livelihood Restoration Framework (LRF) per EBRD's Performance Requirement 5 "Land Acquisition, Restrictions on Land Use and Involuntary Resettlement" in respect of impacts to land, resources and livelihoods, including, but not limited to fishers potentially affected by the Baltic Wind Project.
5. The methodology for the assignment is based on the ToR communicated by Sponsors and the Project on 23rd May, 2023. Support has also been provided to the finalization of the Stakeholder Engagement Plan drafted by Ambiens (which was already prepared at inception of this assignment) to reflect supplemental consultation activities related to the LRF and to engagement with fishers groups.
6. The assignment was carried out in a short timeline at end May, early June 2023. It involved a trip to the Project area as well as extensive consultations with the Client and the Lenders. However, no direct engagement with affected parties took place as part of this assignment as it was decided not to pre-empt the consultative process organised in the framework of the "Sector Deal" (see section 1.3).

7. Annex 1 lists documents that were made available for this assignment.

1.2 EU AND NATIONAL POLICY FRAMEWORK

8. The Project is part of the overall EU 2030 climate target (Fit for 55¹ – reduction of 55% of emissions of greenhouse gases by 2030² against their 1990 level, and further carbon neutrality by 2050). Offshore wind farms are one tool amongst others to achieve these targets.
9. The Energy Policy of Poland until 2040 (PEP 2040) takes into account changes in the energy mix, as well as the need to ensure: energy security, fair transformation, recovery after the COVID pandemic, stable labor market, sustainable development of the economy and strengthening its competitiveness with optimum use of Poland’s own energy resources. It is expected that the total installed capacity in renewable energy sources (RES) electricity generation units will amount to approximately 23-25 GW in 2030, resulting in a doubling of the installed RES capacity compared to 2020. Off-shore wind development presents significant opportunities in the Polish context. The installed capacity in Poland’s projects may reach 5,9 GW in 2030 r. and approx. 11 GW in 2040. A consultation process is currently underway to review offshore wind ambitions and expand planned capacity.

1.3 MULTI-STAKEHOLDER ENGAGEMENT FRAMEWORK

10. Offshore wind developers, the Government of Poland, and other stakeholders have agreed in 2021 to a multi-stakeholder “Sector Deal” for the development of offshore wind, which addresses, amongst others, development and stakeholder engagement. The development of the Baltic Power project takes care within this overarching framework, which is based on extensive consultations between the offshore wind sector, represented by the Polish Wind Energy Association, the government, and civil society organisations representing interests potentially affected by the development of offshore wind, including, amongst others, those representative of the fishery sector.

1.4 LIVELIHOOD RESTORATION FRAMEWORK AND LIVELIHOOD RESTORATION PLAN

11. In conformance with Lenders’ policies around “frameworks” and “plans”, this Livelihood Restoration Framework is meant as a first step towards the further preparation of a Livelihood Restoration Plan. Details on the process and the timeline that will lead to the submission and disclosure of this Livelihood Restoration Plan are presented in section 4.3.
12. The LRF (and further the future LRF) is meant to address impacts to land and livelihoods of both on-shore and off-shore Project facilities, as well as associated restrictions to the use of land and natural resources that might arise from the Project construction and operations phases, including, but not limited to exclusion and restriction zones at sea that might affect fisheries in and around the Project off-shore footprint.
13. Key objectives of the LRF are the following:
 - Present the legal framework associated to land compensation in Poland, and to restrictions zones at sea that might affect fisheries (presented in Annex 3);
 - Outline good industry practice based on some international benchmarks (presented in Annex 4);
 - Present a preliminary assessment of potential impacts to land and livelihoods of Project on-shore and off-shore facilities and associated restrictions;
 - Present a preliminary baseline of livelihoods that could potentially be affected by the Project;
 - Outline potential measures meant to avoid, minimise, mitigate and compensate livelihood impacts of Project on-shore and off-shore facilities;

¹ eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0550

² [2030 Climate Target Plan \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021DC0550)

- Provide the basis for consultations with fishers and other affected parties on potential avoidance, minimisation, mitigation and compensation measures;
- Present the path towards the further development of an LRP.

2. BASELINE INFORMATION ON FISHERIES AND POTENTIAL PROJECT OFF-SHORE IMPACTS

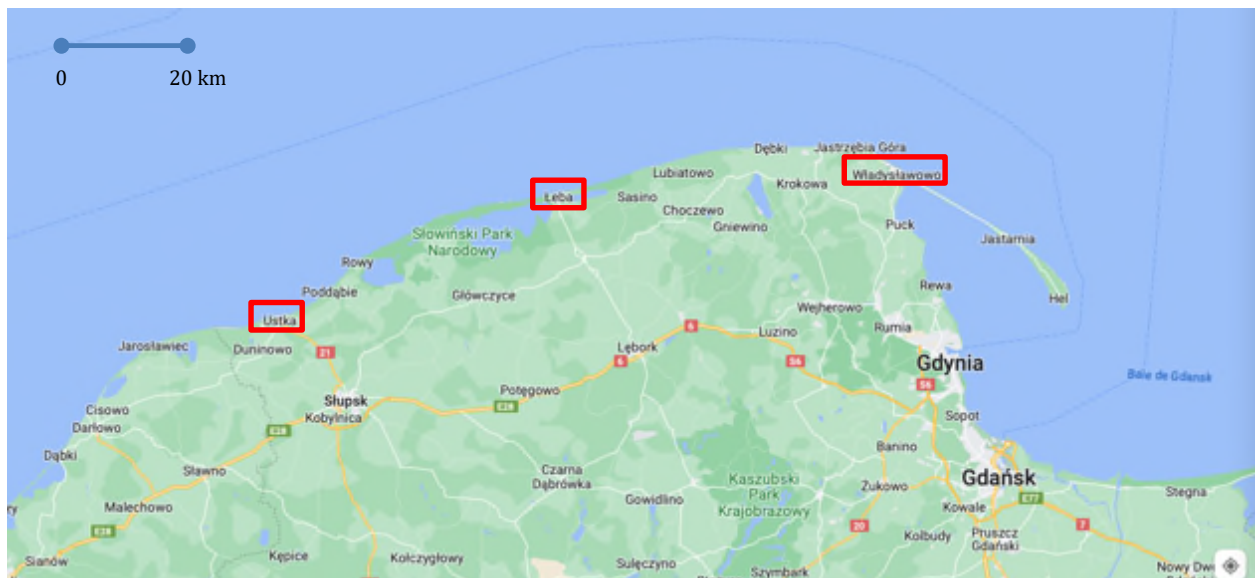
2.1 METHODOLOGY AND LIMITATIONS

14. The information on fisheries in this chapter is based on publicly available data, most prominently from the Project EIA. These data are usually for the period 2014-2018. They are therefore largely outdated because they pre-date the ban on cod fishing, which dramatically changed the environment for fisheries in the Eastern Baltic.
15. No direct consultations with fishers were undertaken within the framework of preparing this LRF. Data from interviews will supplement the further development of an LRP.
16. Annex 1 presents the list of documents we have used for preparation of this LRF, including this baseline chapter.

2.2 FISHING PORTS

17. Fishing activities are mostly carried out in the Baltic Power OWF Area from ports located close to the Project area (Łeba, Władysławowo, Ustka), and to a much lesser extent elsewhere. Most vessels fishing in the OWF area are registered in the port of Łeba, which is the closest one from the OWF. The following figure shows the location of these ports.

Figure 2. Ports of Registration of Vessels Fishing in the OWF Area



Source of data: googlemaps

18. The following figure is based on studies conducted for the Maritime Spatial Planning exercise back in 2014-2105. It shows itineraries of fishing vessels (more than 12 m in length) from key fishing ports in the area. This is for the pre-cod ban situation and it shows clearly two main patterns:
 - Some vessels (it is assumed these would be the smaller ones) fish in territorial waters close to the shore, and are unlikely to be affected by the footprint of the off-shore wind farm but may be affected;
 - Other vessels (it is assumed these would be the larger ones fish further, beyond the OWF. These are mostly based in Władysławowo.
19. The following figure shows photographs taken in these three ports by the LRF team in early June 2023.

Figure 3. Photographs Taken in Fishing Ports by the LRF Team



Władysławowo port



Władysławowo port



Hel: recreational vessel



Łeba: recreational and fishing vessels



Łeba: recreational fishing vessel and sale of fish on the quay

2.3 FISHING SQUARES

20. The Baltic Sea in the Polish EEZ is divided into “Fishing Squares” of approximately 400 km² surface area for stock and catch monitoring purposes, and the Project offshore footprint intersects four of these Fishing Squares (see figure below), out of a total of 123 such squares in the whole Polish coastal waters and EEZ waters. The most affected Fishing Squares in terms of surface area potentially intersected by the OWF are squares N8 (17.9% of its surface area will be affected) and O8 (12.9%). Squares N7 and O7 are affected to a much lesser extent (2.37% and 0.04% respectively).

Figure 4. Indicative Project Footprint and Fishing Squares

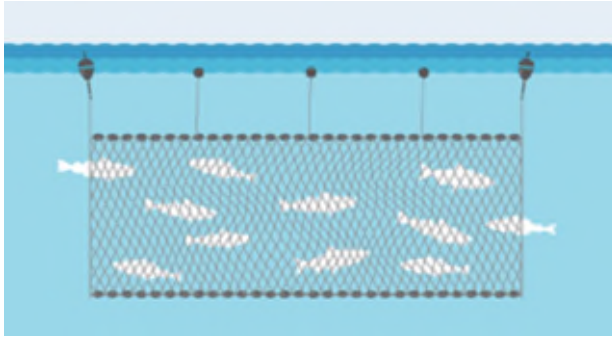


Source: EIA report

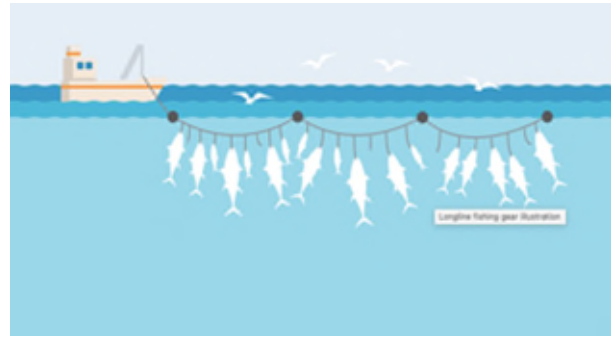
21. For the period 2014-2018, the largest share of the volume and value of catches in the area of the four affected fishing squares is made by vessels registered in Łeba and Ustka (2014-2018).

2.4 FISHING TECHNIQUES

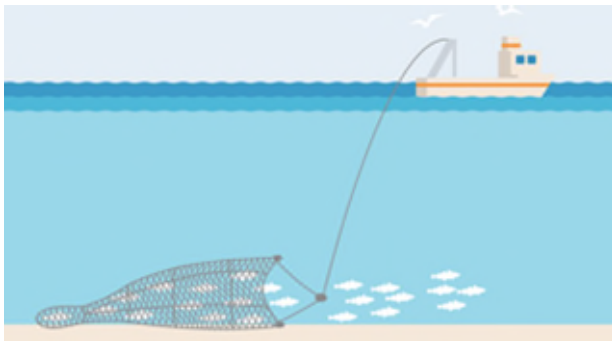
22. In the Baltic Power OWF area, in 2014-2018 set gears (gillnets and hooks) were predominantly used for fishing followed by bottom trawls and pelagic (midwater) trawls. Set gears (mainly cod gillnets) accounted for 50% of the total volume of catches from the four affected Fishing Squares. The share of fishing using bottom trawling was 21%. The different fishing techniques used in the affected area are shown in the figure below:

Figure 5. Fishing Techniques Used in the Affected Area

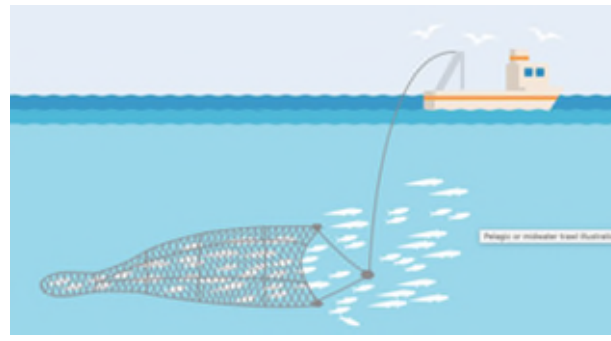
Gillnet (set gear)



Line and hooks (set gear)



Bottom trawler



Pelagic trawler

Source: Illustrations from the Marine Stewardship Council (www.msc.org)

2.5 CATCHES

23. Data on catches in the period 2014-2018 are reflected in the EIA report. The time period considered is a fundamental limitation on the validity of these data for the current period insofar as the prohibition on cod fishing in the Baltic Sea was enforced from mid-2019. This was obviously a major game changer for fishing activities in Poland. In the period 2014 – 2018, fish species caught in the affected Fishing Squares included:
 - European Flounder
 - Cod
 - Others, including Herring, Sprat and Turbot.
24. Prior to the prohibition in mid-2019 of cod fishing, catches of cod were actually contributing to more than half of fishermen income (and 40% in volume). This is indicative of the extent of losses to the local fishery sector related to the prohibition of cod fishing.
25. The EIA characterizes the area of the four affected fishing squares as of a low fishing productivity. The average volume of catches per km² carried out in the area of four fishing squares in the years 2014-2018 amounted to 0.17 ton/km² (PLN 580/km²). This is only 6% of the average productivity of the Polish Maritime Areas (although slightly more – 13% – in terms of value), which in the same period amounted to 2.9 t/km² (PLN 4,600/km²). Catches in the potentially affected fishing squares in individual years tended to decrease within the observation period reflected in the EIA (2014-2018). This was mainly due to the dramatic deterioration of cod stocks, which eventually led the EU Commission to prohibit cod fishing in the Eastern Baltic from mid-2019.
26. In mid-October 2019, the ministers responsible for fisheries from the Member States set new catch limits that will apply from next year. At that time, a decision was made to almost completely ban cod fishing in the eastern Baltic. The ban covered not only professional fishermen, but even sea anglers. The largest group of EU fishermen working in this part of the Baltic Sea are Poles.

27. The four-year ban on cod fishing in the Eastern Baltic entered into force on January 1, 2020, but it can be extended. Until 2024, shipowners and crews of fishing boats that had been fishing for this species so far are eligible to receive compensation for the complete inability to fish. In order to mitigate the economic effects of the ban on cod fishing, funds from the European Maritime and Fisheries Fund are allocated. One issue, however, is that the Polish “recreational”³ fishing sector is not included in this fund and as a result, not all fishermen are to receive compensation for this. Annex 5 details some of the compensation measures to which vessels affected by an inability to fish can be eligible.
28. It is estimated that this problem affects the owners of cutters, small boats and their crews (with families) - about 200 such vessels, i.e. almost 1000 people. For most units involved in recreational (angling) cod fishing, this was the only source of income and they were deprived of their livelihood overnight.

2.6 DATA UPDATE

29. It is essential to base the assessment of impacts to the fishery sector on updated data. As mentioned, the data used in the EIA report and presented above in summary are for the period 2014-2018, and as a result do not reflect the 2019 prohibition of cod-fishing.
30. In April 2022 the Sea Fisheries Institute - National Research Institute prepared a document, where the conditions of coexistence in Polish maritime areas of offshore wind farm projects and accompanying offshore transmission infrastructure and fisheries economy, were broadly presented⁴.
31. The scope of data and its sources that should be analyzed in order to assess the actual fishing activity in the areas of planned farms and accompanying infrastructure (from the last 5 years) is presented in detail in that document:
- “The basic source of data is information from fishing logbooks of fishing vessels and monthly catch reports (in the case of fishing boats with a hull length of less than 8 meters) - catch data. These data are reported electronically or on paper forms by fishing vessel owners to the Fisheries Monitoring Center (CMR) in Gdynia (located within the structure of the Fisheries Department of the Ministry of Agriculture and Rural Development) directly or through the Chief Sea Fisheries Inspectorate (GIRM). In the CMR database system (ERS), this data is contained in RPT07 reports.
 - In order to determine the value of catches, information on average annual fish landing prices is necessary - landing data. The source of this information are landing declarations (which are part of fishing logbooks) and sales documents for fishery products. In the CMR database system, these data are available in the RPT08 report.
 - VMS data is a supplementary source of information necessary to accurately indicate the driving location. Pursuant to the Council Regulation 1224/2009, from 1 January 2012, all fishing vessels over 12 meters in length are required to have a device that allows the vessel to be automatically located and identified by the vessel monitoring system. Signals about the location of the fishing vessel are sent at intervals of 1-2 hours. The VMS system is supervised by CMR.”

³ This is not recreational fishermen in the usual sense, rather professional fishermen having converted their activity to using their vessels to accommodate tourists on fishing tours. See section 2.2 and associated photographs.

⁴ Warunki współistnienia w polskich obszarach morskich projektów morskich farm wiatrowych i towarzyszącej morskiej infrastruktury przesyłowej i gospodarki rybackiej, Morski Instytut Rybacki – Państwowy Instytut Badawczy, Gdynia, 01.04.2022

2.7 SUMMARY

32. Potentially affected fishermen are based in the ports of Ustka, Łeba, Władysławowo, and to a much lesser extent in some other ports in Pomerania. Vessels based in these ports can be classified as follows:
 - Small vessels (typically less than 12 metres in length), which fish in territorial waters close to the shore, and are unlikely to be affected by the off-shore wind farm;
 - Larger vessels (typically in the range 30 to 40 metres in length), mostly based in Władysławowo.
33. In addition, there are so-called “recreational fishing” vessels in all ports, which take tourists to fishing or sightseeing tours along the coast.
34. Fishing in the Project footprint itself could be affected, although catch baseline tends to suggest that the four fishing squares that are partially covered by the Project are amongst the least productive in the Eastern Baltic. Productive fishing grounds are either between the coast and the wind farm, or beyond it in the EEZ. Impacts are therefore more likely to be associated to restrictions of movement through the wind farm during construction and operations for those vessels fishing beyond the wind farm, and in the cable corridor during construction for those fishing between the coast and the wind farm.
35. The prohibition in 2019 of cod catches in the Eastern Baltic has been a game changer for fishers in the area. Before their prohibition, cod catches accounted for a very significant portion of fishers’ livelihoods in the Project area, in the order of 50% or more. Livelihoods associated with fishing (those of fishers and those of “recreational” fishers) have therefore suffered a dramatic blow following the prohibition of cod catches. Other species fished in the area are generally less valuable. As a result of the cod prohibition and the general adaptation of the fishery sector, the government and the EU are encouraging termination of fishing activity with various compensation measures.
36. The number of vessels whose movements are potentially affected by the maritime footprint of the Baltic Power offshore wind farm is probably in the order of 100 to 150 between the three ports of Łeba, Ustka (the two most affected), and Władysławowo (the largest of all three but least affected). In addition, about 50 recreational vessels are probably affected. Assuming an average crew of 3 to 5, the number of affected jobs is probably in the range of 400 to 1000. This gives a very broad order of magnitude, which will need to be confirmed through consultations with fishers and their organisations.
37. In the current situation, given the prohibition of cod catches, impacts to a sector that is already very severely affected by other factors are of limited significance.

3. PAST STAKEHOLDER ENGAGEMENT RELATED TO THE BALTIC POWER PROJECT

3.1 PAST CONSULTATION ON SPATIAL PLAN AND PROJECT EIA

3.1.1 National Consultation in Poland

38. In April 2021, the maritime spatial plan for internal marine waters, the territorial sea and the exclusive economic zone on a scale of 1: 200,000 was adopted by a regulation of the Council of Ministers⁵. The draft plan was widely consulted. This process lasted several years and is well documented (see Annex 6). The draft plan together with the strategic environmental assessment (SEA) were available to the general public from 19 June 2018 to 1 August 2018. The updated documents were made available again to the public from 8 August 2019 to 27 September 2019. Four consultation meetings open to the general public as well as sectoral meetings were organized, including those on the subject of fisheries⁶. Additional analyses and studies were carried out during the work on the plan, including a more accurate location of fisheries for fishing boats over 12 m in length on the basis of interviews with fishermen, which covered 267 fishers in 53 locations (estimated to be 72% of the fishers population).
39. A summary of these interviews is provided in one of the appendices to the maritime spatial plan, as follows: "All existing fisheries and fishing navigation to fisheries outside the reserved area are allowed, outside of closed areas for shipping and fisheries designated by the decisions of the directors of maritime offices (navigation safety rules, 100-metre safety zone around turbines and other structures – which will be determined at the stage of issuing a building decision)".
40. Annex 5 presents the outcomes of this consultation exercise in further detail.

3.1.2 International Consultation

41. During the maritime spatial plan preparation (2017), three meetings were organized with neighbouring countries. 40 people from 7 Baltic countries participated in the first meeting, then again 40 people took part in the second consultation meeting (6-7 Nov 2017 in Warsaw), including representatives from Germany, Denmark, Sweden, Russia, Latvia and Finland.
42. Due to possible impact of MSP on the Germany, Denmark and Sweden the transboundary procedure established by the Espoo convention was applied during proceedings (started in 2020).

3.2 PAST CONSULTATION BY BALTIC POWER

43. So far, the Project developer has carried out the following activities related to community consultation and support with local communities.

3.2.1 Consultations in Łeba

44. In March 2020 Baltic Power organized a meeting with the local community of Łeba⁷. Attendance included numerous fishermen, owners of fishing boats, councilors and the mayor. Various topics were discussed, as follows:

⁵ [Kategorie planów morskich » Projekt planu zagospodarowania przestrzennego Polskich Obszarów Morskich w skali 1:200000 \(umgd.gov.pl\)](https://umgd.gov.pl/kategorie-planow-morskich-projekt-planu-zagospodarowania-przestrzennego-polskich-obszarow-morskich-w-skali-1:200000)

⁶ [Spotkanie w sprawie rybolowstwa \(umgd.gov.pl\)](https://umgd.gov.pl/spotkanie-w-sprawie-rybolowstwa) „On November 21, 2017, an industry meeting was held at the Ustka City Hall as part of the development of the draft spatial development plan for Polish Maritime Areas. The discussion was devoted to the proposed provisions on how to include fisheries needs in the draft plan. The meeting was attended by, among others. Chairman of the Advisory Team of the Minister of Maritime Economy and Inland Navigation, **representatives of fishermen**, the Department of Fisheries at the Ministry of Maritime Economy and Inland Navigation and the Maritime Fisheries Institute in Gdynia. Thank you for the numerous arrival and constructive discussion that will help develop a draft plan that optimally addresses the needs of fisheries.”

⁷ <https://leborg.naszemiasto.pl/spotkanie-w-sprawie-morskich-farm-wiatrowych-rybacy/ar/c1-7587495>

- arrangements with the Maritime Office for a protection zone for wind farms - there are fears that the investment will not only prevent fishermen from sailing through the farm area and limit fishing in its area, but will also scare the fish away,
 - the issue of compensation for losses caused by the construction of farms,
 - the benefits that Łeba will derive from the location of wind farms,
 - the issue of "local content", i.e. the participation of Polish companies in the supply chain for Polish offshore wind farms - what are the real chances for entrepreneurs from Łeba to take advantage of this (requests about the possibility of including the port in Łeba as an operational port)
45. In 2022, cooperation with the local government was continued and resulted in a long-term lease of land in Łeba for the port meant to service the construction and operation phases, where 50 people could be employed (technicians who can operate specific elements of turbines). This is an interesting opportunity for the Łeba community and a perspective for the youth. The developer has reported that further discussions are underway with the Lębork starost and school directors so that young people from the Lębork powiat can enhance their skills in view of the Project

3.2.2 Consultations within the Framework of the “Sector Deal”

46. On the initiative of the Deputy Minister of Climate and Environment, representatives of the government administration and key representatives of the offshore wind energy sector signed the "Polish Offshore Wind Sector Deal" on September 15, 2021. The overriding goal of this agreement is to support the development of the sector in Poland and to maximize "local content", i.e. the participation of Polish entrepreneurs in the supply chain for offshore wind farms built in the Polish exclusive economic zone. The Sector Deal is meant to enable the start of cooperation between entities interested in the construction and development of the offshore wind energy sector. Parties to the Agreement are representatives of the government administration, representatives of investors and the industry, and other stakeholders, including:
- Ministry of Climate and Environment,
 - Ministry of State Assets,
 - Ministry of National Defence,
 - Ministry of Interior and Administration,
 - Ministry of Education and Science,
 - Ministry of Finance, Development Funds and Regional Policy,
 - Ministry of Agriculture and Rural Development,
 - Ministry of Labor and Technology,
 - Representatives of local government units, entities of the education system, higher education and science,
 - Representatives of fishing associations,
 - Representatives of investors and the industry, specifically the Polish Wind Energy Association and the Polish Offshore Wind Energy Association.
47. The Agreement is to constitute a permanent platform for cooperation between government administration and local government authorities, current and future investors and operators of offshore wind farms in Poland, as well as representatives of the supply and service chain, scientific and research units and financial and insurance institutions, in order to achieve the purpose of the Agreement, by ensuring coordinated actions for the dynamic development of the Offshore Wind Energy sector in Poland, with an emphasis on strengthening national energy, environmental, economic and social benefits⁸.

⁸ <https://www.gov.pl/web/klimat/podpisano-porozumienie-sektorowe-na-rzecz-rozwoju-morskiej-energetyki-wiatrowej-w-polsce>

48. According to information presented by Baltic Power, the need of establishing the framework for compensation is being discussed within Polish Offshore Wind Sector Deal. One out of 6 working groups established further to the Sector Deal is tasked to develop rules that will enable safe coexistence of sea fisheries and offshore wind farms.
49. The scope and schedule of work of this working group are the following:
 - Development of rules on how to verify possible losses and possible and adequate methods and scale of their compensation for documented lost fishing opportunities for owners and operators of fishing vessels (Q1/Q2 2023);
 - Developing and submitting detailed proposals to the Ministry of Agriculture and Rural Development conditions for sea fishing in the area of the OWF and in within the export infrastructure (Q4 2023).
50. The first meeting of this group took place in June 2022 and the group is meeting regularly every month. Among many issues, the following were discussed in detail:
 - The Danish solutions (see Annex 4) - the co-existence of fisheries and offshore wind farms and the rules for implementing compensation for losses incurred by fishermen,
 - The need to develop ways of communication with fishermen not associated in organizations,
 - The need to regulate the issue of compensation for fishermen in the Polish regulations,
 - The scope of the Code of Good Practices.
51. According to the provisions of the Sector Deal, the development of the Code of Good Practices is an activity of the investors and the work on this document takes place in the working group for fisheries. The main elements of the outline of the Code have been developed taking into account comments from fishing communities. The fishing communities will be involved in its final form when the Code will be presented within Sector Deal group.
52. One of the main tasks of this Code is to identify the recommendations on how to verify possible losses and possible and adequate methods and scale of compensation for documented lost fishing opportunities for owners and operators of fishing vessels. The authors of this LRF were informed that it was not discussed widely yet in the Sector Deal group, however the need to regulate this matter in law has been identified.
53. The draft Code of Good Practice is to be discussed within the Sector Deal working group in Q3-Q4 of 2023. No document is available at this point but it is important to note that the document should be established in time for start of the Baltic Power construction phase and the development of the LRP. Consultations held within this framework will be reflected in the LRP.

3.2.3 Past Consultations in Choczewo Commune with Regards to Offshore and Onshore Facilities and the Choczewo Wind-Driven Commune Programme

54. Choczewo (the commune where Łeba is located, as well as the on-shore sub-stations) is potentially affected by the Baltic Power project as well as by the cumulative impacts of other offshore developments. Consultations took place around the following three themes:
 - Offshore installations;
 - Onshore facilities, particularly including the underground and overhead transmission lines and the substation;
 - The on-going programme of community development activities is being implemented with the second phase just recently announced (April 2023).
55. Annex 3 presents a Baltic Power document describing these consultations in further detail.

3.2.3.1 Early Consultations

56. In 2020, Baltic Power held a series of meetings with the local self-government authorities, residents of Choczewo Commune, local ecological organizations, social organisations and local entrepreneurs, during which the concept of construction of an offshore wind farm and the accompanying onshore infrastructure was presented. These meetings were co-organized with

Polskie Sieci Elektroenergetyczne and other offshore wind farm operators whose infrastructure is also being built in the area of Choczewo municipality. Such an approach was considered appropriate because from the perspective of local stakeholders, it is difficult to distinguish which of the energy companies builds which stations. This is why educational and informational activities are undertaken jointly, establishing a working group at the investor level to coordinate communication issues.

57. Further a second round of meetings were organized in 2021. At that time, the location of the substation, line and cable bench had already been preliminarily approved, and the purpose of the meetings was to once again inform and consult the community with information on the projects, as well as to create another opportunity to ask questions about the projects, including the project implemented by Baltic Power. The meetings were held on June 15-17, 2021 in Łętowo, Choczewo, Kierzkowo, and Zwartowo. An information brochure was prepared by Baltic Power, to provide residents with the most important details of offshore wind farm projects in an accessible manner, and was distributed during meetings with residents.

3.2.3.2 *Community Development Programme*

58. Investors in the wind sector in the Choczewo Commune proposed as a group a community development programme called “Choczewo, Wind-Driven Commune”. In the first phase, 45 projects were implemented with a total value of PLN 1 million (EUR 225,000). The programme is financed by investors of offshore wind farms in the area, including:
- PGE Baltica and Ørsted Polska,
 - Baltic Power (PKN Orlen and Northland Power), and
 - Ocean Winds.
59. Projects are intended to solving specific local issues and helping to enhance social involvement, strengthen long-term social capital and local residents skills in view of the development of the wind industry. Support is intended for entities located in the Choczewo commune. The program is dedicated to local communities, foundations and associations as well as the commune and commune units. The program is used to support projects that are to bring benefits to the community of the Choczewo commune. Offshore wind companies want to help in the implementation of initiatives aimed at e.g. development of social activity, support for villages, support for security, promotion of cultural heritage, environmental protection and ecological education, development of children and youth.

3.2.3.3 *Targeted Consultations in Choczewo Commune*

60. As part of consultation on both the Choczewo, Wind-Driven Commune programme and optimal location of the transmission lines and sub-station in the Commune, the following consultation events were organised:
- Interviews with residents in April 2022: A total of 57 interviews were held in the Choczewo municipality. Each interview lasted approximately 60 minutes. Depending on who was interviewed, the interviews were focused either on the whole Choczewo municipality or specific civil parishes. The interviews were aimed at learning general observations about the area (the Choczewo municipality/individual civil parishes) and opinions on the residents of the municipality/individual civil parishes, the potential of the municipality/civil parish, the problems of the municipality/civil parish, activities for the benefit of the local community carried out by the given organizations or representatives of the residents, the greatest needs of the municipality or a given civil parish.
 - Workshops with residents of the Choczewo municipality in April 2022: Eight workshops were held. The workshops were held separately for 2 civil parishes, Kopalino and Kierzkowo, and 6 combined workshops were organized for the following civil parishes: Zwartówkowo and Gościęcino, Ciekocino and Słajszewo, Choczewko and Borkowo Lęborskie, Łętowo and Słajkowo, Sasino and Jackowo, Choczewo and Starbienino. Each individual meeting was attended by between 5 and 15 people.

- Research walks in April 2022: Fourteen research walks were conducted, one in each civil parish. Individual walks were attended by several to over a dozen people. Each walk took between 1 h to 1.5 h. The walks were open to all interested residents, and the transmission line route was determined jointly with the participants by indicating the places most important for them in a given civil parish. During the walks, individual interviews with participants and photographic documentation were also conducted.
- A joint “launch workshop” in June, 2022, during which the results of previous works were discussed. The problems and needs of civil parishes, units and organizations serving the community of the municipality were discussed. Examples of ideas were discussed in thematic groups. More than 40 people attended the workshops.
- Consultation points in the Commune of Choczewo in June 2022, in all 14 civil parishes. All interested parties were able to talk about the programme, submit idea sheets and applications, to the Committee which is taken with recommending projects for co-financing. The points were very popular. Residents submitted over 40 idea sheets.

4. LIVELIHOOD RESTORATION FRAMEWORK

4.1 ON-SHORE

4.1.1 Baltic Power Transmission Line and Sub-Station

61. All land for the underground connection from the beach to the Baltic Power sub-station and the sub-station itself is secured and available for construction purposes.
62. Land between the beach and the sub-station, where the underground connection lines will be built, is public forest land. No landowner or land user was affected.
63. Land for the Baltic Power sub-station was acquired from a private landowner residing in the neighboring community. Land was used for agricultural purposes directly by the landowner (growing Christmas trees). The expropriation process was not triggered as it was possible to negotiate terms agreeable to both parties. Compensation has been entirely paid by the Project.
64. The following figure shows some photographs of the area.

Figure 6. Area of the Baltic Power On-Shore Transmission Line and Sub-Station



Beach landing (underground connection lines). Trenchless crossing (HDD) of the beach and dune. No commercial users observed on public land on the beach. The area is not accessible to vehicles, which have to park about 1 km away.



Baltic Power underground transmission line corridor. The area is forested. It is public land.



Sub-station site. Land has been acquired and cleared.

4.1.2 PSE Associated Facilities

65. Contiguous to the Baltic Power sub-station, another sub-station is to be built by PSE, the Polish transmission grid operator to gather energy from the different offshore wind projects planned in the same area. From that second substation, overhead transmission lines will transport energy from the Project (and from neighbouring wind farms) to the main Polish grid. This component (sub-station and lines) will be developed by PSE, a State-owned company. To the extent that this line may be considered an “associated facility” per the Lenders PS1/PR1, Baltic Power will have to work with PSE insofar as this will be allowed by PSE, to ensure that lenders’ requirements pertaining to land acquisition and resettlement are taken into consideration.

4.1.3 Construction Land Needs

66. It is understood from Baltic Power that there will be no further land needs for the construction phase. Non-local construction workers would be accommodated in existing hotels and guest-houses, therefore no construction camp will be built. Similarly, it appears that staging or storage areas can be accommodated at the sub-station site, with no further impacts to privately-owned land. Absence of such impacts will have to be confirmed in the final Livelihood Restoration Plan.

4.1.4 Impact Summary

67. The following table presents a summary of land impacts of on-shore components of the Project

Table 1. Summary of Land Impacts

Component	Surface area (m2)	Original landowner	New landowner	Compensation
Underground on-shore transmission line				
Horizontal Directional Drilling (HDD)	48,863	State forest (forest district of Choczewo)	State forest (forest district of Choczewo)	Not applicable, state land
Open excavation	121,500	State forest (forest district of Choczewo)	Baltic Power (usufruct rights)	Not applicable, state land
Sub-station				
Sub-station	79,946	Private person	Baltic Power	Negotiated transaction, payment done
PSE Sub-station (associated facility)				
Sub-station	297,422	Private persons	PSE	Negotiated transaction

4.1.5 Further Land Acquisition (If Necessary)

68. At this point in time, it is not envisioned that any further land acquisition will be necessary, whether of a permanent or temporary nature. Should such land acquisition become necessary, it will be reflected in the future LRP and the following principles will apply:
- Baltic Power will apply Polish law and PR5 / PS5 / Standard 6, and this LRF;
 - Baltic Power shall prioritise amicable agreements with landowners or land users, using expropriation as a last resort only if no amicable agreement can be reached;
 - The Project shall avoid all physical displacement impacts (impacts to inhabited buildings) through design optimisation/mitigation/minimisation in line with Polish law.

4.2 OFF-SHORE

4.2.1 General Spirit of Impact Management Measures

69. Avoidance and minimisation of impact to fisheries will be prioritised. The process is described in section 70. The key principle is to design, build and operate the Project in such a manner that impediments to navigation of vessels less than 50 m in length and fishing will be kept minimal in both the construction and operations phases. Avoidance and minimisation will be based on:
- Physical measures
 - Communication, education and skill enhancement targeting fishers (both professional fishers and “recreational” fishers).
70. The need for compensation and livelihood restoration should be kept minimal as a result of consistent implementation of the above avoidance and minimization measures. However, depending on safety measures in the Code of Good Practices and the decision on final exclusions and restrictions to be taken by the Maritime Office, it is possible that certain impacts will not be avoided. In such cases, potential compensations will be assessed and discussed with affected fishers.
71. In addition, Baltic Power will endeavour to take measures to enhance fishers skills and facilitate their transition to other activities, including procurement of services from fishers (such as guard vessels during construction), and training towards transitioning to jobs in the wind energy industry.
72. Annex 6 presents compensation measures to which fishers are eligible under EU and Polish policies, particularly in respect of termination of their activities.

4.2.2 Avoidance and Minimisation

4.2.2.1 Construction Phase Impacts

73. The organisation of the construction and shutdown of the Baltic Power OWF area will be in accordance with the seabed permit, the construction permit, agreements with the Gdynia Maritime Office and regulations at national level.
74. The final decision on potential closure of the OWF area during construction, or potential navigation corridors, will be made independently from developers by the regulator (Maritime Office in Gdynia). In addition, the Code of Good Practices currently under preparation may address avoidance and minimization measures too.
75. A detailed construction phase impact avoidance and minimization plan will be devised by Baltic Power on the basis of the following:
- Regulator’s and authorities’ decision, obtained permits on exclusion and restriction zones;
 - Code of Good Practices; and
 - Principles in this LRF.
76. The outcomes of the avoidance and minimization plan will be reflected in the final Livelihood Restoration Plan.

77. In case the Code of Good Practices happens not to be finalised at the time the LRP needs to be prepared, Baltic Power will engage in consultations with fishers in the key affected ports to arrive at avoidance and minimization measures that are acceptable to all parties.
78. Where temporary unanticipated or additional exclusions or restrictions have to be put in place by Baltic Power during the construction phase on top of the generic ones, they will be published in the key affected ports (via port captains) and provided with Notices to Mariners through the hydrographic office of the Polish Navy as require law and good practice. This does not apply in case of unexpected emergencies.
79. Prior to commencement of construction, Baltic Power shall organize information meetings in the key affected ports around restrictions and exclusions applicable to fishing and recreational vessels. A safety brochure meant specifically for fishing and fishing recreational vessels will be prepared by Baltic Power for dissemination to fishers. It will be posted on Baltic Power's website, disseminated via port captains and fishers associations, with notices in the local press about its purpose and availability.
80. Per the Stakeholder Engagement Plan, Baltic Power is to establish a grievance mechanism meeting lenders requirements as contained in their stakeholder engagement standards (e.g. PR10 for EBRD). This grievance mechanism will be designed to accommodate claims and questions from fishers, with a specific avenue meant for them to lodge grievances, concerns or questions through port captains, commune offices, and fishers associations. It is described in further detail in the Stakeholder Engagement Plan.
81. Throughout construction, Baltic Power will organize yearly meetings with fishers in each of the key affected ports to monitor, register and address specific concerns and provide information to the status of construction and the path towards operations.

4.2.2.2 Operations Phase Impacts

82. In case the Code of Good Practices (or the consultative process described in paragraph 77 above) concludes that certain areas have to be closed or restricted for fishing, fishers could be compensated per processes and principles in sections 4.2.3, 4.2.3.2 and 4.3..

4.2.3 Compensation for Loss of Fishing Income

4.2.3.1 Eligibility Principles

83. Restrictions to fishing or exclusions thereof during the construction phase will be compensated to eligible fishers according to processes and principles in sections 4.2.3.2 and 4.3.
84. Any compensation will follow PR5 / PS5 / Standard 6 principles, as well as eligibility rules defined in the Code of Good Practices currently being agreed between fishers representative organisations and Offshore Wind Industry under Offshore Sector Deal.
85. Only fishing vessels registered in the key affected ports (both professional fishers and recreational fishers) able to demonstrate that they do fish in the affected area will potentially be eligible to compensation under this LRF.

4.2.3.2 Compensation Entitlements

86. Entitlements, including rates, amounts, and conditionalities, will follow the rules defined in the Code of Good Practices.

4.2.4 Livelihood Restoration Measures

4.2.4.1 Potential Measures

87. Livelihood restoration measures will be discussed in the discussions leading to the Code of Good Practice, and/or directly with potentially affected fishermen. They may include:
 - Skills development training to eligible fishers in view of reconversion into the wind energy sector, with a training needs assessment to be carried out as part of the socio-economic survey and LBS.

- Procurement from local affected fishers of certain off-shore services such as guard vessels or similar.

4.3 SCOPE OF, AND PROCESS TO THE LIVELIHOOD RESTORATION PLAN

4.3.1 Overview

88. Per the spirit in Lenders' requirements, the spirit of a Livelihood Restoration Plan when a Framework has been prepared before is:
- To elaborate on those measures that could not be described precisely (in this case because the on-going consultation process is not complete);
 - To assess impacts more precisely than in the Framework based on a census and socio-economic survey;
 - To provide an implementation plan and a budget that the Project developer commits upon through the public disclosure of the document.

4.3.2 Census and Cut-Off

89. A census of affected fishers will be conducted in the key affected ports over a period not exceeding two weeks in duration. The end-date of this census will serve as cut-off date in the sense of international standards. This will include:
- Identification of all vessels fishing in fishing squares N7, N8, O7 and O8, and moored and/or registered in the key affected ports including both professional fishers and recreational fishers (those organising tourist fishing tours for recreation purposes);
 - Identification of the owners and crews of these vessels and verification that the vessel is operational at the time of the census;
 - Collection and verification of licenses;
 - Interview with vessel owner, captain, and other crews to ascertain people that are actually affected, as well as dependency on affected fishing grounds.

4.3.3 LRP

90. On the basis of this LRF, PR5, and additional investigations described above, a LRP will be drafted, including final livelihood restoration measures, implementation arrangements (roles and responsibilities), budget and timeline for implementation.

4.4 INTERNAL AND EXTERNAL MONITORING

91. The LRP will include internal and external monitoring provisions, including reviews at regular intervals of the progress and compliance of LRP measures implementation by an external party. The following monitoring reports will be submitted to Lenders:
- Six-monthly internal monitoring reports;
 - Reports of external performance and compliance reviews by the external monitor.

ANNEX 1 – LIST OF DOCUMENTS USED

DOCUMENTS RECEIVED FROM BALTIC POWER

- Cooperation with key stakeholders of the Baltic Power project, May 2023.
- Project Management Plan. Stakeholder Management Plan, Baltic Power, August 2022.
- Baltic Power Offshore Wind Farm, Environmental and Social Due Diligence Report, draft, Ambiens, 10.06.2023.
- Porozumienie sektorowe na rzecz rozwoju morskiej energetyki wiatrowej w Polsce Grupa 6 – Współpraca interesariuszy i otoczenie regulacyjne / Sector agreement for the development of offshore wind energy in Poland Group 6 – Stakeholder cooperation and regulatory environment.
- Notatki z 9 spotkań Podgrupy 6.3 ds. współpracy w obszarze rybołówstwa (działającej w ramach Porozumienia sektorowego na rzecz rozwoju morskiej energetyki wiatrowej w Polsce) – spotkania miały miejsce od 30 czerwca 2022 do 10 maja 2023 / Notes from 9 meetings of Subgroup 6.3 on cooperation in the area of fisheries (operating under the Sector Agreement for the development of offshore wind energy in Poland) – meetings took place from June 30, 2022 to May 10, 2023.
- Informacja - Grupa robocza Polskiego Stowarzyszenia Energetyki Wiatrowej ds. rybołówstwa / Information - Working group of the Polish Wind Energy Association for fisheries.
- flyer: Morskie Farmy Wiatrowe PKN ORLEN / PKN ORLEN offshore wind farms.
- Raport z konsultacji społecznych dotyczących budowy farm wiatrowych na Bałtyku – 5 marca 2020 roku, Biblioteka Miejska w Łebie, ul. 11 Listopada 5A, godz. 11,00 – 13,00 / Report on public consultations regarding the construction of wind farms in the Baltic Sea – March 5, 2020, City Library in Łeba, ul. November 11 5A, at. 11.00 – 13.00.
- Raport z konsultacji społecznych dotyczących budowy farm wiatrowych na Bałtyku – 6 marca 2020 roku, Urząd Miejski we Władysławowie, ul. Gen. J. Hallera 19, sala nr 103, godz. 11,00 – 13,00 / Report on public consultations regarding the construction of wind farms in the Baltic Sea – March 6, 2020, City Hall in Władysławowo, ul. Gen. J. Haller 19, room No. 103, at. 11.00 – 13.00.
- Prezentacja: Założenia projektu Morskiej Farmy Wiatrowej Baltic Power Spotkanie informacyjne ze środowiskiem rybackim, Łeba, 05 marca 2020 r. / Presentation: Assumptions of the Baltic Power Offshore Wind Farm project Information meeting with the fishing community, Łeba, March 5, 2020.
- Information: Current regulations and objectives of Poland's energy policy.

ADDITIONAL DOCUMENTS AND INFORMATION USED

- Warunki współistnienia w polskich obszarach morskich projektów morskich farm wiatrowych i towarzyszącej morskiej infrastruktury przesyłowej i gospodarki rybackiej, Morski Instytut Rybacki – Państwowy Instytut Badawczy, Gdynia, 01.04.2022 / Conditions for coexistence in Polish areas of offshore wind farm projects and accompanying offshore transmission infrastructure and fisheries management, Maritime Fisheries Institute – National Research Institute, Gdynia, 01/04/2022.
- EIA report – EBRD website,
- draft ESAP, 17 maj 2023 – EBRD website
- EIA decisions (issued by RDEP and GDEP)
- Prognoza oddziaływania na środowisko projektu planu zagospodarowania przestrzennego morskich wód wewnętrznych, morza terytorialnego i wyłącznej strefy ekonomicznej w skali 1: 200 000 (V.4), 2020 - uchwalony MPZP - Dz.U.z 21 maja 2021, poz. 935, Rozporządzenie Rady Ministrów z dnia 14 kwietnia 2021 w sprawie przyjęcia morskiego planu zagospodarowania przestrzennego morskich wód wewnętrznych, morza terytorialnego i wyłącznej strefy ekonomicznej w skali 1: 200 000 / Strategic environmental impact report of the project spatial development plan for internal marine waters, territorial sea and exclusive economic zone on a scale of 1:200,000 (V.4), 2020 - adopted MPZP - Journal of Laws of May 21, 2021, item. 935, Regulation of the Council of Ministers of April 14, 2021 on the adoption

of a maritime spatial development plan for internal sea waters, the territorial sea and the exclusive economic zone on a scale of 1:200,000.

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ANNEX 2 – PROJECT PERMITTING STATUS AND ASSOCIATED CONSULTATIONS

This summarized overview of the permitting status is provided insofar as it is relevant to this LRF. Full details on the permitting status are provided in the Due Diligence report prepared by Ambiens.

PROJECT PERMIT

On May 9, 2012, Baltic Power Sp. z o.o. obtained a seabed permit No. MFW/6/12 from the Minister of Transport, Construction and Maritime Economy to erect and use artificial islands, structures and devices in the Polish maritime areas for the project entitled: “Offshore wind farm with a maximum total power output of 1200 MW, including technical, measurement, research and service infrastructure related to development, construction and operation stage”, amended in 2013, 2020 and 2021. Other permitting conditions pertain to the on-shore part of the Project.

DECISION ON ENVIRONMENTAL CONDITIONS

The decision on environmental conditions (ED) was initially issued by the Regional Director for Environmental Protection (RDEP) on September 17, 2021. However, an NGO lodged an appeal against this decision on environmental protection grounds (unrelated to land acquisition or impacts to fisheries) and, as a result, of this process, the final decision was revised and issued by the General Director for Environmental Protection (GDEP) June 29, 2022. Further, the GDEP decision was revised again on March 1, 2023, based on the new EIA report submitted by the investor. The EIA as permitted and the associated Environmental Decision are available on the competent authority’s and on Baltic Power’s website⁹.

MARITIME SPATIAL PLANNING

The off-shore area of the planned project is covered by the Maritime Spatial Plan (MSP) adopted by the Council of Ministers on April 14, 2021¹⁰. This is an important document in the perspective of coexistence of the wind farm with pre-existing maritime activities, including fisheries. It was adopted further to an extensive consultation process carried out under the auspices of the Maritime Affairs Directorate in Gdynia, of which our team obtained the full record, and which contains more than 500 “comments and conclusions”.

In regards of fisheries, comments and conclusions of the public were made in particular by the following organisations:

- Three professional organisations representing local fishers, including (Annex 4 provides information available from public sources on these groups):
- Śródkowopomorska Grupa Rybacka, Ustka (Central Pomeranian Fishing Group, Ustka),
- Krajowa Izba Producentów Ryb, Ustka (National Chamber of Fish Producers, Ustka),
- Darłowska Grupa Producentów Ryb i Armatorów Łodzi Rybackich (Group of Fish Producers and Shipowners of Fishing Boats, Darłowo) – negation of the rightness of building wind farms, raised issue of their impact on the environment,
- Lewiatan Confederation, Warsaw,
- Polish Wind Energy Association, Szczecin, and
- The Marshal of the West Pomeranian Voivodeship.

On the part of the government, interest in fisheries was expressed by:

- the Minister of Agriculture and Rural Development,
- the Minister of Energy, and
- the Minister of Maritime Economy and Inland Navigation.

⁹ <https://www.balticpower.pl/media/1168/decyzje-%C5%9Brodowiskowe-morska-farma-wiatrowa-baltic-power.pdf>

¹⁰ “Adoption of a spatial development plan for internal sea waters, territorial sea, and Exclusive Economic Zone at a scale of 1:200,000”

ANNEX 3 – LEGAL FRAMEWORK

KEY RELEVANT INTERNATIONAL, EU AND POLAND LEGISLATION

Taking into account the specifics of the Project, the legal framework set by international conventions, EU directives and national laws on the marine environment, selected regulations of relevance to the Project are presented below.

International and EU Legislation

The EU Common Fisheries Policy

The Common Fisheries Policy (CFP – adopted in 2013) aims to ensure that fishing and aquaculture activities contribute to long-term environmental, economic and social sustainability. In line with the [European Green Deal](#) and the [biodiversity strategy 2030](#), EU fisheries are governed by the [precautionary principle](#) in order to limit the impact of fishing activities on the marine ecosystem.

The CFP builds on four pillars:

- fisheries management;
- international policy;
- market and trade policy; and
- financial support, i.e. the [European Maritime, Fisheries and Aquaculture Fund](#).

The CFP establishes rules for the management of fisheries, thus contributing to the conservation of marine biological resources, increased productivity, a fair standard of living for the fisheries sector, stable markets and the availability of food supplies at reasonable prices. Regarding market measures and financial support, the CFP also covers freshwater biological resources and aquaculture activities, along with the processing and marketing of fishery and aquaculture products.

Fisheries management aims to enable fishers to maximise their catches without threatening the reproduction of fish stocks (their ‘maximum sustainable yield’. To this end, total allowable catches (or ‘fishing opportunities’) are set for most commercial fish stocks. Fishing levels had to conform to maximum sustainable yield levels for all stocks by 2015, if possible, and no later than 2020.

The management of fish stocks is based on [scientific advice](#). EU [Member States](#) must collect, manage and make available the data needed for scientific advice. This includes biological, environmental and socioeconomic data. Data collection activities are financially supported by the EU.

By introducing a [landing obligation](#), the CFP aims to end the wasteful practice of returning unwanted catches to the sea (discarding). The landing obligation was gradually phased in over the 2015–2019 period and is now fully in force, requiring fishers to land all catches of regulated commercial species.

[Multiannual plans](#) set targets for the management of fish stocks. Where the adoption of multiannual plans or management plans that include discard plans takes longer than envisaged, Regulation (EU) [2017/2092](#) (amending Regulation (EU) No 1380/2013) empowers the [European Commission](#) to adopt discard plans.

[Technical measures](#) are a broad set of rules that govern how, where and when fishers may fish. They are established for all European sea basins, but they differ considerably from one sea basin to another, reflecting regional circumstances.

The CFP decentralises decision-making by bringing it closer to the fishing grounds (a process known as regionalisation). It provides for the establishment of [advisory councils](#) for each of the geographical areas. Member States with a management interest in a given area can propose detailed measures, which the Commission can adopt into [EU law](#).

A fisheries control system ensures compliance with the CFP rules, including the fight against illegal, unreported and unregulated fishing (Regulation (EC) No [1005/2008](#) – see [summary](#)). Regulation (EU) No [1026/2012](#) (see [summary](#)) lays down the rules that apply to conserving fish stocks in countries with unsustainable fishing.

New [marketing standards](#) with respect to labelling, quality and traceability allow consumers to be better informed about the origin of the fish they buy and its mode of production.

The sustainability principle also applies to EU vessels fishing [outside EU waters](#). The Commission is granted the power to negotiate and conclude [sustainable fisheries partnership agreements](#) on behalf of the EU with certain non-EU partner countries. These agreements:

- allow EU vessels to fish for surplus stocks in the partner country's exclusive economic zone* in a legally regulated environment in return for a financial contribution;
- focus on resource conservation and environmental sustainability, ensuring that all EU vessels are subject to the same rules of control and transparency.
- Member States must support the development of [sustainable aquaculture](#) through multiannual national plans.

Other EU Fishery and Sea Protection Directives

These include the following:

- [Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008](#) establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)¹¹. The Directive refers to the United Nations Convention on the Law of the Sea (UNCLOS)¹² approved by the Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the UNCLOS and the Agreement of 28 July 1994 relating to the implementation of Part XI and prepared a framework for marine strategies for each Member States. The marine strategy should be updated every 6-year and consulted with the public¹³. According to the Directive, Poland should publish and make available to the public for comment summaries of the following elements of their marine strategies, or it related updates: 1) the initial assessment and the determination of good environmental status; 2) the environmental targets; 3) the monitoring programmes; 4) the programmes of measures.
- Directive 2014/89/UE¹⁴ (Marine Spatial Planning Directive): this directive introduces the requirement for member countries to develop spatial development plans of maritime areas by 31 March 2021 at the latest. It also establishes the obligation to review of these plans at least once every ten-year. It requires an integrated approach of planning, with engagement and consultation of stakeholders, use of the best available data and information, take into account land and sea interactions, ensure cross-border cooperation between Member States and promoting cooperation with third countries.
- The Marine Strategy Framework Directive and Marine Spatial Planning Directive have been transposed into Polish law by the Water Law¹⁵ and the Maritime Act¹⁶. The Water Law covers the public participation process held under the Marine Strategy Framework Directive and Marine Spatial Planning Directive.
- Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information¹⁷. The Directive objectives are: 1) to guarantee the right of access to environmental information held by or for public authorities and to set out the terms and conditions of, and practical arrangements for, the exercise of this right; and 2) to ensure that environmental information is made available and disseminated to the public in order to achieve the widest possible availability and dissemination of environmental information.

¹¹ [EUR-Lex - 32008L0056 - EN - EUR-Lex \(europa.eu\)](#)

¹² [UNCLOS+ANNEXES+RES.+AGREEMENT](#)

¹³ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information.

¹⁴ [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:257:FULL](#)

¹⁵ [Akt prawny \(sejm.gov.pl\)](#)

¹⁶ [Akt prawny \(sejm.gov.pl\)](#)

¹⁷ [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0004](#)

- The SEA¹⁸ and EIA¹⁹ Directives, transposed into Polish law by the EIA Act²⁰, and the Aarhus Convention cover access to environmental information, public information and consultation procedures during SEA and EIA processes.
- Lastly, the Habitat²¹ and Birds²² Directives (respectively: 92/43/EEC and 2009/147/EC) were established for the protection of the natural environment of certain species of flora and fauna as well as fungi and their habitats (protected under Natura 2000) areas. They also concern the marine environment, in particular marine mammals and birds in the Baltic Sea. The impact assessment of draft strategic documents and planned investments on species and habitats is carried out in accordance with the procedure set out in the Habitats Directive, which, in Poland, has been transposed in national law by the Nature Conservation Act²³ and is integrated in SEA and EIA procedures.

International Conservation Conventions Relevant to the Baltic Sea

The Convention on the Protection of the Marine Environment of the Baltic Sea of 22 March 1974, updated in 1992, ratified by Poland on 18 June 1980²⁴ and by EC/EU on 21 Feb 1994²⁵. The convention sets up the HELCOM commission²⁶, establishes a framework for international cooperation, information to the public and exchange of information at international level, as well as responsibility for pollutions, including lists of substances harmful to the marine environment, etc. The Convention defines the principle of pollution prevention, the use of best ecological practices and the best available technology comes first. HELCOM prepared the Baltic Sea Action Plan updated in October 2021²⁷, addressing sea based activities such as wind farms (mostly in terms of noise emission during preparation and project operation or decommissioning) and fish management actions including guides for sustainable use of fish resources.

Polish Legislation

Maritime Safety Act

The Maritime Safety Act²⁸: Chapter 5a of the Act regulates the requirements for the safe operation of offshore wind farms. An offshore wind farm must meet requirements for safety, protection of the marine environment, protection of the state border at sea and state defense set out in the regulations. Offshore wind farms must be built and operated with the assurance of: 1) compliance with the obtained permit for the erection or use of artificial islands, structures and equipment or agreement or permit for laying cables or pipelines in Polish maritime areas, and decision on environmental conditions; 2) shipping safety; 3) safety of personnel involved in the construction, operation and decommissioning of an offshore wind farm; 4) functioning of communication systems, maritime security, protection of the state border at sea and state defense; 5) protection of the marine environment. These provisions require the investor in offshore wind farms to develop a number of expert opinions that are approved by the relevant authorities, including navigational expertise.

¹⁸ eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0042

¹⁹ [Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0092)[Text with EEA relevance \(europa.eu\)](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0092)

²⁰ [Akt prawny \(sejm.gov.pl\)](http://sejm.gov.pl/akt-prawny)

²¹ eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992L0043

²² [Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds \(europa.eu\)](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0147)

²³ [Akt prawny \(sejm.gov.pl\)](http://sejm.gov.pl/akt-prawny)

²⁴ [Oświadczenie rządowe z dnia 18 czerwca 1980 r. w sprawie ratyfikacji przez Polską Rzeczpospolitą Ludową Konwencji o ochronie środowiska morskiego obszaru Morza Bałtyckiego, sporządzonej w Helsinkach dnia 22 marca 1974 r. \(sejm.gov.pl\)](http://sejm.gov.pl/Oswiadczenie%20z%20dnia%2018%20czerwca%201980%20r.%20w%20sprawie%20ratyfikacji%20przez%20Polsk%C4%85%20Rzeczpospolit%C4%85%20Ludow%C4%85%20Konwencji%20o%20ochronie%20%C5%9Brodowiska%20morskiego%20obszaru%20Morza%20Ba%C5%82tyckiego,%20sporz%C4%85dzonej%20w%20Helsinkiach%20dnia%2022%20marca%201974%20r.%20)

²⁵ eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31994D0157

²⁶ [HELCOM](http://helcom.fi)

²⁷ [Baltic-Sea-Action-Plan-2021-update.pdf \(helcom.fi\)](http://helcom.fi/Baltic-Sea-Action-Plan-2021-update.pdf)

²⁸ [Akt prawny \(sejm.gov.pl\)](http://sejm.gov.pl/akt-prawny)

Water Law

The Water Law regulates water management in accordance with the principle of sustainable development, including the issuance of Water Permits. The Act applies to maritime waters in the field of water management, protection against pollution from land sources and protection against floods. In accordance with the Law, updates of the water management plan which includes surface and groundwater bodies and coastal waters (applicable primarily to the power line corridor) as well as updates of the Marine Water Protection Program²⁹ (applicable as well to the wind farm site) are prepared every 6 years. The public consultation process associated to the Water Law permit of the Baltic Power project was carried out from July 5, 2021 to October 5, 2021. As part of the consultation and amongst others, three national conferences took place in Gdańsk, Gdynia and Szczecin. A total of 188 comments and conclusions were submitted during the public consultation of the draft program. 121 comments were taken into account from the comments and conclusions submitted, 11 were partly taken into account, 35 were not included and 21 were explained³⁰. Two remarks made by two NGOs are related to offshore wind farms: one pertains to noise emissions during construction and the other remark is related to the monitoring of fishing boats (interaction with cetaceans and fishermen's role in collecting data on cetaceans). No other specific comments were introduced in respect of fisheries or fishers' livelihoods.

Maritime Act

The Maritime Act applies to internal marine waters and territorial sea waters administration. Article 24 of the Maritime Act defines security zones around artificial islands and groups of artificial islands (located at a distance of less than 1000 m from each other). Safety zones are also defined around cables and pipelines. The competent territorial director of the maritime office (in this case Gdynia) is responsible to establish by regulation safety zones adapted to the type and destination of artificial islands, other structures and equipments, cables or pipelines, which should be not more than 500 m from each point on the outer edge, unless another zone range is permitted by accepted international standards or recommended by the relevant international organization. The director of the maritime office is responsible for determining the conditions for movement in the safety zone, in particular may impose restrictions on shipping, fishing, water sports or diving or underwater work. It is understood that protection zones are designated around the entire wind farm and energy transmission line and substation.

The Act introduces a separate regulation for the preparation and issue of spatial development plans for maritime areas. All plans and projects related with the management of marine internal waters and the territorial sea are approved by maritime administration bodies in agreement with the relevant coastal municipalities. Important areas are included in the spatial development plan of Polish maritime areas or parts thereof permits for the construction and use of artificial islands, structures and equipment in Polish maritime areas and permits for the laying and maintenance of submarine cables and pipelines in internal sea waters and the territorial sea, issued on the basis of this provision Act. The spatial development plan of Polish maritime areas should take into account the distribution of restricted zones for shipping and fisheries, and, if possible, a description of the periodically announced hazardous areas for shipping and fishing, established for the purposes of defense or state security. In relation to the obligations arising from the Directive, in 2015, a Study of the conditions for spatial development of Polish maritime areas with spatial analyses was developed³¹. Study should be public consulted but no detailed data about this process were found.

The EIA Act regulates SEA and EIA procedures integrated with procedures on impacts on Natura 2000 sites and Water Framework Directive goals. According to the Act all drafts of strategic documents including these related to offshore wind farms, sea-based activities etc. as well as planned investments listed in regulation have to have screening or full impact assessment procedures

²⁹ The last documents were prepared in 2016 [kpowm-2016.pdf \(kzgw.gov.pl\)](#) and adopted by the Council of Ministers on 11 December 2017 [Rozporządzenie Rady Ministrów z dnia 11 grudnia 2017 r. w sprawie przyjęcia Krajowego programu ochrony wód morskich \(sejm.gov.pl\)](#)

³⁰ [Podsumowanie konsultacji społecznych w ramach przygotowania projektu aktualizacji Programu Ochrony Wód Morskich - Ministerstwo Infrastruktury - Portal Gov.pl \(www.gov.pl\)](#)

³¹ [Studium uwarunkowań zagospodarowania przestrzennego Polskich Obszarów Morskich \(umgd.gov.pl\)](#)

(appropriate assessment). During SEA and EIA procedures public participation process is guaranteed by law. The disclosure period is typically 21 or 30 days for the public participation process, sometimes reiterated during EIA procedures. If impacts on other countries are expected, transboundary procedures according to Espoo Convention³² take place.

Construction Act

Construction Law³³ - the Act regulates activities covering matters of design, construction, maintenance and demolition of facilities construction and sets out the principles of public administration bodies in these areas. Pursuant to this Act, building permits are issued for offshore wind farms and for energy transmission line.

SPECIFIC PROVISIONS RELATED TO COMPENSATION AND LIVELIHOOD RESTORATION OF AFFECTED FISHERIES AND LANDOWNERS

Fisheries

Regarding fisheries, in Poland, there are no legal regulations at this point governing the payment of damages or compensation in the event of loss of income source or increased labour costs in connection with the implementation of investments. In the event of difficulties in fishing due to the implementation of an Offshore Wind Farm, there is no legal possibility to compensate for lost income. The granting of compensation or support for social groups losing their source of income is part of good international practices (GIP) but is not prescribed by Polish law.

Partial compensation due to the introduction, at EU level, of restrictions on fishing was granted to fishermen under operational programs upon their application to such compensation. This is particularly relevant to the 2019 prohibition of cod catches. Details are provided in Annex 5.

Land

Situations where natural persons or entrepreneurs lose their land, buildings and assets or structures upon land that cannot be replaced, in connection with the implementation of public purpose investments are regulated by Polish law, with overarching principles to be found in the Constitution and the expropriation process provided by the Real Estate Management Act.

As typical in OECD and EU countries, expropriation in Poland starts with an amicable negotiation process. Further, if no agreement is reached between the parties within two months, the expropriation procedure is initiated.

The key prescriptions of Polish law pertaining to land acquisition and relevant to on-shore components of the Project are summarized in the table below.

³² [Text of the Convention / UNECE](#)

³³ [Akt prawny \(sejm.gov.pl\)](#)

Legal act	Description	Comments / gaps
The Constitution of the Republic of Poland ³⁴ adopted on 2 April 1997 (Dz.U. 1997 No. 78 item 483)	Protects the right to ownership and inheritance. Art 21 specifies that the deprivation or restriction of property rights can be made only “for public purposes and against fair compensation” (in line with the language in the Universal Declaration of Human Rights)	General legal framework in conformance with general Human Rights international law
The Real Estate Management Act 21 August 1997 ³⁵ (consolidated text Dz.U.2023, poz. 344)	Defines the rules for expropriation of real estate and its valuation. According to the Act, property expropriation may be made only for public purposes and its valuation can only be done by a surveyor (real estate valuation expert). Based on Art. 114, proceedings regarding the expropriation of real estate for public purposes should be preceded by negotiations for the acquisition by contract of rights specified in art. 112 section 3, carried out between the starosta (<i>local administration, powiat</i>) and the owner or perpetual user of the property. During negotiations the landowner can be offered a replacement property. The initiation of expropriation proceedings takes place if an agreement could not be reached within two months.	No provisions for compensation of income losses or livelihood restoration. Addresses only land, buildings and other assets or structures upon land that cannot be replaced.
The Civil Code ³⁶ 23 April 1964 (consolidated text: Dz.U. 2022, poz. 360, as amended)	Makes possible pursuing claims in civil law in the absence of consent to expropriation	Applies when no agreement about compensation between parties
Act on the promotion of electricity production in marine wind farms 17 Dec 2020 ³⁷ (consolidated version: Dz.U.2002, poz. 1050, as amended)	Special act for offshore wind farms. The Act specifies: 1) terms and conditions for providing support for electricity generated in offshore wind farms; 2) terms and conditions for the preparation and implementation of investments in the construction of offshore wind farms; 3) rules for disposing of a set of power take-off devices and the offshore wind farm; 4) requirements for the construction, operation and decommissioning of offshore wind farms.	No rules for compensation of losses.
Act on the preparation and implementation of strategic investments in the field of transmission networks 24 July 2015 ³⁸ (consolidated version Dz.U. 2022, poz. 273 as amended)	The Act sets out the principles of preparation and strategic implementation investments in transmission networks as well as sources of their financing. Generally (and amongst others), it provides for the possibility for the Treasury to acquire land in an expedited manner for transmission manners. Art. 3a. The provisions of the Act also apply to investments in the scope of the set of devices used to derive power within the meaning of the Act of 17 December 2020 on promoting electricity generation in offshore farms wind (...), except for the investor there is a producer for these investments. Art. 19. 1. Decision to determine the strategic location of investments in the field of transmission networks, real estate divisions are approved. Maps with division projects of real estate is an integral part of the decision to establish strategic location investments in the area of transmission network. Para 7 To determine the amount and pay compensation, the provisions on the economy shall apply accordingly to real estate, including art. 21. Para 8 If part of a property has been taken over real estate, and the rest is not suitable for proper use on existing goals, voivode at the request of the current owner or perpetual user acquires this part on behalf of and for the benefit of the Treasury real estate.	Properties become legally owned by the Treasury on the day on which the decision to determine the strategic location of the investment in the field of the transmission network became final, for compensation. Compensation rules are under Act of Real Estate Management.

³⁴ [Akt prawny \(sejm.gov.pl\)](#)

³⁵ [Akt prawny \(sejm.gov.pl\)](#)

³⁶ [Akt prawny \(sejm.gov.pl\)](#)

³⁷ [Akt prawny \(sejm.gov.pl\)](#)

³⁸ [Akt prawny \(sejm.gov.pl\)](#)

ANNEX 4 – INTERNATIONAL BENCHMARKING – FISHERY COMPENSATION AND WIND FARMS

While many countries have no regulatory framework at this point, some countries in the EU and/or OECD have established detailed regulations and/or guidelines as to compensation for fishers due to restrictions and disturbances caused by offshore wind developments.

REQUIREMENTS OF INTERNATIONAL FINANCE INSTITUTIONS

Lenders to the Project apply a set of environmental and social requirements. While these differ in letter, they converge in spirit. There are three sets of environmental and social policies that will be applied by Lenders to the Baltic Power project:

- The European Investment Bank (EIB) applies its 2022 Environmental and Social Standards. The standard relevant to displacement impacts and livelihood restoration is Standard 6 “Involuntary Resettlement”.
- The European Bank for Reconstruction and Development Bank (EBRD) applies 10 “Performance Requirements” (PR) appended to its overarching Environmental and Social Policy (2019). The PRs relevant to displacement impacts and livelihood restoration are PR5 “Land Acquisition, Restrictions on Land Use and Involuntary Resettlement”, while PR10 addresses “Information Disclosure and Stakeholder Engagement”.
- Other lenders apply the International Finance Corporation’s Performance Standards (PS), namely PS5 “Land Acquisition and Involuntary Resettlement”.

While focusing on the impacts of land acquisition, all these “resettlement” standards also clearly address restrictions to the use of natural resources, hence are applicable to the impacts of restrictions to navigation or fishing grounds. Key requirements of these standards that are pertinent for the Baltic Power project are the following:

- Displacement (including “economic displacement”, that is impacts to livelihoods) should be avoided or minimised exploring technically and economically feasible Project design alternatives;
- Affected livelihoods should be improved or re-established to their pre-Project levels, based on the simple principle “not worse-off if not better-off”; “livelihood” as understood by international standards is a broad concept that includes income, access to services, quality of life, amongst others;
- All plans to mitigate or compensate impacts to livelihoods and re-establish them where residual impacts are unavoidable should be thoroughly consulted upon with affected groups, taking into consideration the specific needs of women and disadvantaged groups as applicable; this includes disclosure of mitigation plans and consultation in culturally sensitive events;
- Plans should be monitored and evaluated.

DENMARK

Denmark has adopted a detailed regulatory framework, complemented by technical guidelines³⁹. The Fisheries Act provides for the following in respect of interactions between fishers and offshore wind development:

- The EIA of offshore wind developments should include a detailed assessment of impacts to fisheries, based on both official data from the Danish Fishery Agency and interviews with local fishers. An independent consultant must assess the level of compensation.
- The developer must contact the commercial fishermen operating in the area with a view to negotiating possible compensation for documented losses under the Fisheries Act. As a general rule, negotiations on compensation are carried out by the Danish Fishermen’s Association. However, the Concessionaire should be aware that the Danish Fishermen’s

³⁹ https://ens.dk/sites/ens.dk/files/Globalcooperation/offshore_wind_and_fisheries_in_dk.pdf

Association might not represent all commercial fishermen in the specific area. Any compensation will cover the offshore wind farm and cables.

- Guidelines also encourage mitigation measures to “smoothen the negotiation process”, such as:
- Limiting the exclusion areas by dividing the construction area into different phases;
- Providing substitute revenues by including some fishing vessels or fishermen in the construction and operation of the offshore wind farm, e.g. as guard vessels;
- Allowing fishing with static gear inside the wind farm.

A recent (June 2023) government-brokered “Marine Plan” is viewed by local stakeholders as strengthening further fishers claims for compensation and restricting to an extent permitting potential for further offshore wind developments to better accommodate fisheries’ interests.

Annex 2 presents a summary document issued by the Danish Energy Agency, which outlines key measures expected from developers in their interaction with fisheries.

FRANCE

France established in 2021 an offshore wind tax (19,305 € per installed MW per year), which is applicable to all wind farms located in territorial and EEZ waters. The proceeds of this tax are to be allocated as follows:

- 50% to communes from which the wind farm may be visible;
- 35% to local fishermen committees;
- 10% to the French Biodiversity Office (a public entity in charge of biodiversity management and conservation);
- 5% to local maritime rescue organisations.

The proceeds of this tax directed to fishers committees are in principle meant to support the modernization of vessels and fishing techniques to adapt to a changing and more restrictive EU fishery regulatory framework. There are various implementation issues that are still in consultation stage and it is understood that no monies have yet been directed to fishers associations in application of this tax. As a result, French fishermen are still engaging in multiple legal actions to seek cancellation of permits for wind farm projects, and tensions are routinely observed between fishers groups, offshore developers and state institutions that promote renewable energy.

UNITED KINGDOM

The United Kingdom has opted for “non-restrictive guidance”, and as a result there is no specific regulatory framework apart from the general EIA legislation (the requirements of which were recently downgraded from the past EU framework), but offshore wind developers are encouraged to negotiate collective or individual compensation offers to fishermen. Similarly, there are implementation issues, as some developers have sought to negotiate individual compensation offers while fishers organisations favoured collective solutions, resulting in fishers organisations vehemently opposing some projects.

EUROPEAN PARLIAMENT RESOLUTION

On 7 July, 2021, the European Parliament adopted a resolution on the impact on the fishing sector of offshore wind farms and other renewable energy systems. Amongst others, this resolution calls for the following:

- (quote)
- “17. Stresses that OWFs should, whenever possible, be placed in zones where fishing is not permitted, in order to minimise negative impacts on the fishing industry;
 - 18. States that OWFs can have an impact on fisheries by changing the spatial distribution and abundance of commercially fished marine species as well as through their closure for safety reasons or the imposition of a change in fishing activity or method, for example from active to passive;

- 19. Insists on the establishment of dialogue and cooperation with fishers at an early stage in the process; emphasises the need to take into account local ecosystems and the specificities of the local community; highlights the need for proper compensation for fishers if the establishment of OWFs affects their activities; (...)
- 23. Stresses that small-scale and coastal fishers will be particularly affected if displacement takes place, as they may not have the capacity to move to fishing grounds further afield or to change fishing method, particularly if OWFs are located in territorial waters (12 nautical miles from the coast); calls for appropriate compensation as a last resort;
- 24. Stresses the need to facilitate access to insurance for fishing vessels operating in or sailing through areas with OWFs, as it is currently very problematic owing to the insufficient indemnity levels offered by fishing vessels' insurance policies;
- 25. Points out that any restriction on access to traditional fishing grounds directly affects the livelihoods of fishers from the different coastal EU Member States and dependent jobs ashore; stresses, therefore, that appropriate compensation should be given as a last resort when necessary; furthermore, points out that restrictions on access could undermine the responsible and sustainable provision of food security.

(endquote)

OTHER SOLUTIONS ELSEWHERE

Generally, offshore wind developers are encouraged to negotiate one or several of the following actions in terms of compensation to fishers or mitigation of impacts thereupon:

- One-time or regular payments into a community fund, managed at commune or local fishers association level;
- Payments into funds managed by biodiversity or social NGOs;
- Support in the form of specific local and environmental investments, supporting education, fleet modernisation, fishing gear upgrades, or port investments;
- Benefit-sharing agreements (participation in profits or co-ownership in the venture);
- Employing fishers in construction and operation, either as enterprises (guard vessels) or as individuals (retraining to work in offshore wind construction or operations).

It is also important to consider the possibility of developing methods to maintain fishing in the offshore wind farms OWF areas ("Identifying ways to keep fishermen fishing")⁴⁰. Measures to minimise potential conflict between the fishing sector and offshore wind farms, identified in the study of the Gdynia Sea Fisheries Institute, include the following:

- "Actions taken at the design stage - e.g. selection of areas with low fishing capacity, designing turbine foundations and anti-erosion protection in such a way that they facilitate the creation of an artificial reef enhancing habitat potential;
- Actions aimed at supporting the existing types of fishing activities: development of fishing tools adapted to the new fishing conditions, financial support for measures to improve the efficiency/profitability of fishing conducted in the area of wind farms, e.g. products of fish origin, participation in the creation of a local processing base,
- Development of new types of fishing and non-fishing activities, e.g. training in the use of new types of tools, assistance in developing technologies that maximize product quality, employing fishermen to work in the operation of the OWF or tourism related to recreational fishing in the OWF area".

Lastly, it is notable that in the onshore wind industry, particularly in developing or emerging economies and where indigenous communities are potentially affected, long-term benefit-sharing

⁴⁰ *Warunki współistnienia w polskich obszarach morskich projektów morskich farm wiatrowych i towarzyszącej morskiej infrastruktury przesyłowej i gospodarki rybackiej, Morski Instytut Rybacki – Państwowy Instytut Badawczy, Gdynia, 01.04.2022 / „Conditions of coexistence in Polish maritime areas of offshore wind farm projects and accompanying offshore transmission infrastructure and fisheries management”*

agreements with affected groups are becoming increasingly common on top of mandatory compensation for land, with the following two main forms:

- Access of affected groups to equity in the project and remuneration in the form of dividends;
- Allocation of a fixed or variable percentage of profits to affected groups.

DANISH SUMMARY GUIDELINES

Source: Danish Energy Agency

[https://ens.dk/sites/ens.dk/files/Globalcooperation/offshore wind and fisheries in dk.pdf](https://ens.dk/sites/ens.dk/files/Globalcooperation/offshore_wind_and_fisheries_in_dk.pdf)

OFFSHORE WIND AND FISHERIES IN DENMARK

December, 2018



Photo by Ørsted

OFFSHORE WIND AND FISHERIES IN DENMARK

Developing an offshore wind project will necessarily have an impact on the fisheries in the area, and it is, therefore, essential to implement a legal framework. In Denmark, the developer has to consult the local fishermen and discuss potential mitigation measures or financial compensation to the estimated loss of income. Based on documented data, these estimations are initiated during the Environmental Impact Assessment and finalized once the layout is confirmed.

LEGAL FRAMEWORK

The Danish Fisheries Act applies for 'cable protection zones', *i.e.* the entire wind farm area and on a buffer zone of 200m along each side of the export cable.

According to the Fisheries Act, all fishermen who normally fish in the affected area must be compensated for the loss of income. The Developer has to negotiate compensation with every affected fisherman, and the licence to produce electricity from the offshore wind farm (power plant) can be granted to the Developer only if an agreement has been made with all affected fishermen.

The Construction Permit granted to the Developer (or Concessionaire) states the following conditions:

1. The Concessionaire must contact the relevant commercial fishermen with a view to organizing the construction activities in a way that does not affect commercial fishing more than necessary.
2. The Concessionaire must contact the commercial fishermen operating in the area with a view to negotiating possible compensation for documented losses under the Fisheries Act [...]. As a general rule, negotiations on compensation are carried out by the Danish Fishermen's Association. However, the Concessionaire should be aware that the Danish Fishermen's Association might not represent all commercial fishermen in the specific area. Any compensation will cover the offshore wind

farm area, including the internal grid system, and the export cable corridor. On some projects the export cable is established by the Danish TSO, Energinet.dk which then also handles the compensation agreement with the affected fishermen. If a compensation sum is determined, the sum must be paid by the Concessionaire (and/or Energinet.dk for the export cable corridor).

3. The question of compensation for disturbances to fisheries during the construction phase and for permanent losses, as well as the amount of possible compensation, should be as far as possible determined prior to commencement of offshore construction work.

IMPACT ASSESSMENT

An impact assessment on commercial fisheries is prepared as part of the Environmental Impact Assessment (EIA) of the predetermined offshore wind site. In the Danish model, the EIA is undertaken simultaneously with the tendering process and is therefore based on a project-envelope (Rochdale envelope) including the worst-case scenario.

The analysis is based both on existing data from the Danish Fishery Agency - such as log book data (catches per area), Vessel Monitoring System information, etc. - and on interviews of local fishermen. It aims at determining the kind of fishing activities carried out in the area, the most important commercial fish species, their yearly distribution, etc. The potential impacts during the construction and operation phases are then assessed. However, the final estimates of loss and economical compensation to fishermen shall only be made once the wind farm layout has been finalized.



Hence, as a second step, an independent consultant is hired by the developer after the tendering process to estimate the level of compensation that should be provided to the fishermen. The investigation scope and methods are agreed in cooperation with the Danish Fishermen's Association.

The Developer, the Danish Fishermen's Association and the Danish Fishery Agency finally review and agree on the report.

NEGOTIATION

The compensation should be paid for documented losses with, for example, two- to ten-year data.

The Danish Fishermen's Association and the Developer usually negotiate together, and the Danish Fishermen's Association should involve the relevant local organisations. However, an individual fisherman can also decide to negotiate alone by him/herself, and the Developer is obliged to enter into negotiation.

A voluntary agreement can also be made between the parties: for example, Energinet.dk has made a voluntary agreement with the Danish Fishermen's Association to allow bottom trawling fishing over the export cable connecting the Horns Rev 2 offshore wind farm to shore on the Danish westcoast. Thanks to this voluntary agreement, no compensation has been paid.

Other mitigation measures can smooth the negotiation process, such as:

- Limiting the exclusion areas by dividing the construction area into different phases;
- Providing substitute revenues by including some fishing vessels or fishermen in the construction and operation of the offshore wind farm, e.g. as guard vessels;
- Allowing fishing with static gear inside the wind farm.

Compensation can be provided for the following impacts:

Pre-investigation phase

- Temporary removal of fishing gear.
- Temporary suspension of fishing activities on areas where e.g. geotechnical surveys are conducted.

Construction phase

- Suspension of all fishing activities from the construction area.

Operational phase

- Potential suspension of some fishing activities within the wind farm (usually around the inter-array and export cables, which are protected by the Cable Executive Order (BEK nr 939 af 27/11/1992)).
- Longer distances to sail to new fishing areas.

Learn more on our website:

<https://ens.dk/en/our-responsibilities/global-cooperation>

For further information, please contact:

lm@ens.dk
+45 3392 6779



ANNEX 5 – FISHERS’ GROUPS HAVING CONTRIBUTED TO PUBLIC CONSULTATION PROCESS ON MARITIME SPATIAL PLAN AND THE SUBSTANCE OF THEIR CONTRIBUTIONS

1. Środkowopomorska Grupa Rybacka

Association, registration date: August 29, 2013 - Fish producers association. Based in Ustka. Has the following activities:

- Fishing in sea waters
- Processing and preservation of fish, crustaceans and molluscs
- Production of ready meals and dishes
- Activities of agents specializing in the sale of other specified goods
- Wholesale of other food, including fish, crustaceans and molluscs
- Retail sale of fish, crustaceans and molluscs in specialized stores
- Warehousing and storage of other goods
- Publishing of books, publishing of magazines and other periodicals.

Conclusions of the Organization for the draft spatial plan 2014:

- Need for broad public consultation;
- Request to organize a meeting with representatives of the fishing community;
- Application for taking into account the negative impact of the linear infrastructure on fishing economic activity.

2. Krajowa Izba Producentów Ryb

www.kipr.org.pl

The National Chamber of Fish Producers is an economic self-government organization associating entities conducting business activities in the field of sea fishing. The goals of this organization are:

rational use of sea resources,
improvement of the conditions of sale of fishery products,
development of fishing plans and programmes,
protection of fishing activities,
taking action to stabilize the seafood market.

On January 1, 2022, 24 fishing vessels belonged to the organization, including boats and cutters – mainly from Ustka, but also from Leba and Darlowo.

Applications submitted during the planning process (2014-2018):

- Need to secure the areas north of the Słupsk Bank as an area of fundamental importance for fisheries and to secure transport corridors for ports to the fishing grounds of the Słupsk Trough and Central Bank
- Need to secure the South Baltic area north of Ustka and Łeba for fishing activities
- Need to secure the Bay of Puck as an area important for coastal fishing.

Comments to the draft spatial plan (2018) concerned in particular:

- the planned conditions for using the basin during the operation of offshore wind farms, which will not allow fishermen to fish for both pelagic, bottom cod and salmon fishing in general (the note refers to the decision of the Director of the Maritime Office prohibiting

- fishing and navigation in safety zones established for each wind farm and in places threatening the safety of the internal technical infrastructure)
- the construction stage and provisions on the introduction of a ban on fishing and navigation in the basin occupied for construction, along with a 500 m safety zone around the basin.
- Closure of the construction site for shipping and fishing should be partial, not the entirety.

3. Darłowska Grupa Producentów Ryb i Armatorów Łodzi Rybackich

www.darlowskagpr.pl

Darłowska Group of Fish Producers and Shipowners of Fishing Boats Sp. z o. o. is a recognized organization of fish producers, supports the Local Center for the First Sale of Fish, through which fishermen introduce cod, salmon and other fish species caught in the Baltic Sea to the first sale.

The organization is a company with 31 members. These include individual owners of fishing vessels stationed in Darłowo, Dąbki, Jarosławiec and the Central Pomeranian Fishing Group, whose members are mainly vessels stationed in Ustka. In total, they own 57 fishing vessels.

From the beginning of its activity, the organization has been obtaining EU funds for purposes related to the ongoing maintenance and development of the company. In addition, their fishermen participate in environmental programmes.

Remarks during spatial planning process (2016):

- Application opposing the legitimacy of wind farms in the Polish EEZ and outlining their potential impact on the environment

ANNEX 6 – COMPENSATION MEASURES FOR FISHERS IN POLAND

TERMINATION COMPENSATION - BEFORE END 2022

Until November 15, 2022, a call for applications was conducted for financial assistance for the owner or co-owner of a fishing vessel to start a new business activity.

The Agency's assistance was addressed to the owner or co-owner of a fishing vessel, entered in the register of fishing vessels, and who undertakes to permanently cease fishing activities

The amount of aid is no more than PLN 200,000 for a given applicant. This compensation is managed by the Agency for Restructuring and Modernisation of Agriculture (ARMA).

Source: <https://www.gov.pl/web/arimr/pomoc-dla-wlascieli-statkow-rybackich-na-rozpozecie-wykonywania-dzialalnosci-gospodarczej>

TERMINATION COMPENSATION - FROM 2023

From 24/02/2023, owners of fishing vessels may submit applications for aid to start business activity to the regional branches of ARMA.

Aid beneficiaries:

The Agency's assistance is addressed to the owner or co-owner of a fishing vessel entered in the register of fishing vessels (...) and who undertakes to permanent termination of fishing activities not later than within 24 months from the date of conclusion of the aid agreement.

The amount of aid is not more than PLN 200,000 for a given applicant.

The aid is called *de minimis aid* and is granted in accordance with the provisions of Commission Regulation (EU) No 1407/2013 and the provisions on the procedure in cases concerning state aid.

Source: <https://www.gov.pl/web/arimr/pomoc-dla-wlascieli-statkow-rybackich-na-rozpozecie-wykonywania-dzialalnosci-gospodarczej3>

COMPENSATION LINKED TO WAR IN UKRAINE (DECEMBER 2022)

In December 2022, a call for applications for co-financing under Measure 5.3 "Marketing measures" under Priority 5. Supporting marketing and processing, was launched. Additional costs incurred by operators in the fisheries and aquaculture sector due to market disturbances caused by war in Ukraine and its impact on the supply chain of fishery and aquaculture products can potentially be eligible to certain compensation,

Compensation was granted to owners of fishing vessels engaged in commercial fishing, per fishing vessel of an overall length of:

- less than 5 m - in the amount of PLN 9,000,
- from 5 m to 7.99 m - in the amount of PLN 12,000,
- from 8 m to 11.99 m - in the amount of PLN 28,000,
- from 12 m to 40.60 m - in the amount of PLN 96,000.

The limit of financial aid under the entire package is PLN 28,321,000.