

# **Baltic Operational Oceanographic System**

## **BOOS**

### **Agreement on Observations Programme**

#### **Preamble**

BOOS was mainly focused on ocean observations before its restructuring in 2015. After this restructuring, BOOS covers operational oceanography in both, (in-situ and remote) observations and simulations, each administered as Programmes under BOOS. In this sense, this Observations Programme Agreement under BOOS addresses the specific parts regarding ocean observations in the BOOS Memorandum of Understanding, which was in force before its amendment in 2015. The regulations concerning Programmes under the restructured BOOS in the revised BOOS MoU agreed on in 2015 (called BOOS MoU 2015 in the following) apply to this Observations Programme Agreement.

The Parties are BOOS members according to the BOOS MoU 2015, who are engaged in operational ocean observation (in-situ and/or remote) and related services.

References to BOOS MoU 2015 and its paragraphs within this agreement refer to BOOS MoU 2015 itself or to the current version of a later revision of it and the equivalent paragraphs of that later revision.

#### **1 Objectives**

1.1 In accordance with the BOOS MoU 2015, the objectives of this BOOS programme are to

- co-ordinate, harmonize and develop operational oceanographic observation systems for the Baltic Sea;
- maintain real-time and near real-time exchange of observational data;
- provide observational data for validation and assimilation into regional operational models and forecasts;
- provide observational data for/from regional remote sensing products;
- provide observational data to protect the marine environment, conserve biodiversity and monitor climate change and variability;
- provide high quality data and long time-series required to advance the scientific understanding of the Baltic Sea;
- ensure sustainable observation activities by promoting the partners interests in higher regional (European) level infrastructure developments.

1.2 The scope of co-operation activities extends to areas

- in-situ observations;
- remote sensing observations;

- data and product management;
  - promotion of best practices and standardization;
  - research and development regarding measurement techniques and products;
  - education and training.
- 1.3 To fulfil its objectives, co-operation in this Observations Programme and in its projects may/shall be established making use of the expertise and facilities of the Parties through an appropriate sharing of tasks and resources.
- 1.4 Activities conducted within this Observations Programme do not preclude similar activities being conducted by one Party independently or in bilateral or multilateral co-operation.

## **2 Parties**

- 2.1 The Parties of this Observations Programme are BOOS Members according to the BOOS MoU 2015, who are willing and able to share the workload to acquire and gather operational ocean observation (in-situ and/or remote) data, develop associated products, and provide both the data and the products to BOOS as an entity and its Members according to the stipulations in the Program Plan.
- 2.2 The list of initial Parties invited to sign this Observations Programme Agreement is attached in Appendix 1.
- 2.3 According to paragraph 7.5 of the BOOS MoU 2015 and provided they meet paragraph 2.1 of this agreement, new and also existing BOOS Members have the right to become Parties of this running Observations Programme, but may, however, be requested for a compensation stated by the original Parties.
- 2.4 New Parties shall be added to the list of initial Parties in Appendix 1.
- 2.5 The Programme Team formed by the Parties may invite Associate Members, who are not eligible or willing to become BOOS Members, to participate in this Observations Programme. The Associated Members have to accept and sign this Observations Programme Agreement as Associated Members.
- 2.6 A list of the Associated Members including their commitments shall be attached in Appendix 1.
- 2.7 The Programme Team formed by the Parties may invite Temporary Members, who are not eligible or willing to become BOOS Members, to participate in a project under this Observations Programme. For the duration of their temporary membership the Temporary Members have to accept and sign this Observations Programme Agreement as Temporary Members.
- 2.8 A list of the current Temporary Members including their commitments and the stipulated duration of their participation shall be attached in Appendix 1.

## **3 Programme Team**

- 3.1 The Programme Team is the deciding body of this Observations Programme.
- 3.2 The Programme Team shall consist of at least one representative of each Party and, according to paragraph 4.1 of this agreement, meet at least once a year at the Annual Meeting.
- 3.3 The Programme Team shall be chaired by a Programme Manager and a Vice Programme Manager, each representing a Programme Party in the Programme

Team, which is a BOOS Member, i.e. ,in particular, not representing an Associate or Temporary Member of this Programme.

- 3.4 The Programme Managers are the only managing body of this Observations Programme, i.e. among chairing this Programme they form a sparse Programme Board, which may be supported by Working Groups or Task Teams for special tasks according to paragraph 3.7 of this agreement.
- 3.5 The Programme Managers shall be appointed by the Programme Team at its Annual Meeting according to paragraphs 3.6, 4.3, 4.4, and 4.5 of this agreement and have to be confirmed by the BOOS General Assembly according to paragraph 4.7 of the BOOS MoU 2015.
- 3.6 The Programme Managers shall serve for four years and are eligible for re-election only one time (maximum term of service is eight years). The periods of service of the Programme Managers shall be shifted by two years against each other, so that one of them is re-elected or replaced every second year.
- 3.7 The Programme Team may form Working Groups or Task Teams on special (administrative, representative or other) tasks to support the Programme Managers in their function as Programme Board, e.g. amendment of this Observations Programme Agreement. These Working Groups and Task Teams shall be suspended after completion of their specific task or if the Programme Team decides so. The functioning of Working Groups and Task Teams shall be stipulated for each case separately.

#### **4 Annual Meeting**

- 4.1 The Programme Team shall meet once a year, preferably in April or May along with the BOOS General Assembly.
- 4.2 The Programme Managers shall compile matters for the Annual Meeting based on suggestions of the Programme Parties.
- 4.3 At the Annual Meeting the Programme Team shall among other matters
  - review the actions according to the Programme Plan;
  - review the Programme Plan and confirm or revise and amend it;
  - review the ongoing projects under this Observations Programme and decide on their continuation;
  - appoint the Programme Managers;
  - decide on new Parties and withdrawals;
  - decide on Associate and Temporary Members;
  - decide on amendments to and termination of this Observations Programme Agreement.
- 4.4 All decisions at the Annual Meeting shall be taken unanimously if no specific stipulations are made in the Programme Plan. If consensus on a specific issue is not reachable, the Annual Meeting can unanimously decide that the respective decision is taken by majority on a stipulated level (simple majority, two-thirds, etc.).
- 4.5 For any decision or voting, each Party of this Observations Programme has one vote. Two-thirds of all (current) Parties of this Observations Programme constitute a quorum. Associate and Temporary Members of this Observations Programme have no vote.

## **5 Programme Plan**

- 5.1 A Programme Plan stating specific objectives of this Observations Programme as well as all major decisions on the execution of this programme, finances, data sharing, intellectual property rights, and specific voting rules shall be drawn up by the Programme Team.
- 5.2 The initial Programme Plan is attached in Appendix 2.
- 5.3 The Programme Plan shall be reviewed and confirmed or revised and amended by the Programme Team at its Annual Meeting, according to paragraph 4.3 of this agreement.
- 5.4 All amendments to the Programme Plan as well as all major decisions on the execution of this Observations Programme, finances, data sharing, intellectual property rights, and specific voting rules shall be added to the initial Programme Plan in Appendix 2.

## **6 Commitments**

- 6.1 All Parties, Associated and Temporary Members are obliged to share their observational data from the Baltic Sea region with BOOS an entity and all BOOS Members according to the Programme Plan immediately, i.e. in real-time or, if data is not available in real-time, at the earliest time they are available to the Party who conducts the respective measurement or provides the respective data acquired by a third party. According to paragraph 7.2 of this agreement, the ownership of the data shall not be touched by this data sharing.
- 6.2 All Parties, Associated and Temporary Members are obliged to share products based on the shared data according to paragraph 6.1 of this agreement as well as tools and knowledge to produce these products according to the Programme Plan, which are developed in the context of this Observations Programme or the BOOS MoU in force before BOOS MoU 2015 with BOOS as an entity and all BOOS Members. According to paragraph 7.2 of this agreement, the intellectual property rights on these products, tools, and knowledge shall not be touched by this sharing.
- 6.3 All Parties, Associated and Temporary Members agree that the data, products, tools, and knowledge shared according to paragraphs 6.1 and 6.2 of this agreement may be provided to third parties according to the Programme Plan by BOOS as an entity in the context of legal commitments on a higher regional (European) level. According to paragraph 7.2 of this agreement, the intellectual property rights on these data, products, tools, and knowledge shall not be touched by this provision.

## **7 Data Policy**

- 7.1 The data, products, tools, and knowledge exchange and sharing in the context of this Observations Programme Agreement shall follow the regulations stipulated in the BOOS MoU 2015, in particular paragraph 8.1 of that MoU.
- 7.2 The ownership and intellectual property rights on all data, products, tools, and knowledge shared, exchanged, or provided to third parties in the context of this Observations Programme Agreement, in particular according to paragraph 6 of this agreement, shall not be touched by this sharing, exchange, or provision.

## **8 Financing**

- 8.1 This Observations Programme has no common budget. Each decision is, if required, accompanied by its own budget. The general principle is that each Party carries its own costs.
- 8.2 External funding directly or indirectly (via BOOS) received by this Observations Programme shall be administered according to the application and the rules of the funding organisation by the Programme Team, which may form a Working Group or Task Team for this purpose according to paragraph 3.7 of this agreement.
- 8.3 Projects under this Observations Programme shall have their own budgets administered by the project participants.

## **9 Entry into Force, Duration, Termination**

- 9.1 This Observations Programme Agreement enters into force once it has been signed by all Members of the BOOS MoU 2015 who are willing and eligible to participate in this programme.
- 9.2 After entry into force, this Observations Programme Agreement will remain in force for an indefinite period, but may be revised by the Programme Team at its Annual Meeting according to the paragraphs 4.3, 4.4, and 4.5 of this agreement.
- 9.3 This Observations Programme Agreement is automatically terminated when the BOOS MoU 2015 or a later revision of it is terminated according to its paragraph 10.3 or an equivalent paragraph of a later revision.
- 9.4 The Programme Team may terminate this Observations Programme Agreement at its Annual Meeting according to paragraphs 4.3, 4.4, and 4.5 of this agreement. In this case the Programme Team also decides the appropriate arrangements concerning running projects under this programme and common assets. In the case of termination of this agreement, the continuation of the BOOS Membership of the Programme Parties follows the stipulations of the BOOS MoU 2015, in particular in paragraph 7.4 of that MoU.

## **10 Withdrawal**

- 10.1 A Party, Associated or Temporary Member of this Observations Programme may withdraw from this agreement by giving notice to the Programme Managers at least four months before the Annual Meeting where the details of the withdrawal shall be stipulated.
- 10.2 The details of a withdrawal shall be stipulated at the next following Annual Meeting consistent with paragraph 10.1 of this agreement. In particular, regulations on all common assets and all commitments of the withdrawing Party, Associated or Temporary Member in the context of this Observations Programme and underlying projects shall be negotiated. Decisions are taken according to the paragraphs 4.4 and 4.5 of this agreement.
- 10.3 Projects under this Observations Programme may set specific conditions and rules for withdrawals.
- 10.4 A withdrawal takes effect once all necessary stipulations according to the paragraphs 10.2 and 10.3 of this agreement are accepted by the Programme Team according to the paragraphs 4.4 and 4.5 of this agreement.

- 10.5 The continuation of the BOOS Membership of a withdrawing Programme Party follows the stipulations of the BOOS MoU 2015, in particular in paragraph 7.4 of that MoU.

## **11 Language**

- 11.1 The language of this agreement shall be English. The English version shall always prevail if this agreement occurs in translated versions and these versions have discrepancies compared to the English version.

## **12 Governing Law**

- 12.1 This agreement and all matters in connection therewith shall be subject to the laws of the Kingdom of Sweden without reference to its conflicts of laws principals.

## **13 Dispute Resolution**

- 13.1 The Parties, Associated and Temporary Members involved shall do their utmost to resolve by negotiations any dispute that may arise in connection with this agreement. In the event that it proves impossible to solve the dispute by negotiations, the dispute shall be brought to an arbitration panel consisting of one sole arbitrator. The fact that a dispute has been brought to the arbitration court or referred to arbitration shall not relieve the Parties, Associated and Temporary Members of their obligations under this agreement.
- 13.2 The arbitrator shall be appointed by the Parties, Associated and Temporary Members jointly within thirty days from the date the Party, Associated or Temporary Member demanding arbitration has communicated with the other Party/Parties, Associated and/or Temporary Members. Should the Parties, Associated and Temporary Members fail to agree on an arbitrator within the time stipulated above any of the Parties, Associated or Temporary Members may send a written communication to the Swedish Bar Association arbitrator making a request that an arbitrator shall be appointed.
- 13.3 The arbitration proceeding shall be held in Stockholm in accordance with the rules of the Arbitration Institute at the Stockholm Chamber of Commerce.

## **14 Severability Clause**

- 14.1 If any provision of this agreement shall be invalid or impracticable in whole or in part this shall not affect the validity of the remaining part of this agreement. In lieu of the invalid or impracticable provision an appropriate provision shall apply which is nearest to the intent of the Programme Parties or to what would have been their intention in keeping with the meaning and purpose of this agreement if they had considered this issue at the conclusion of this agreement or at a later addition of a provision.