

Contract "Masterplan Ems 2050"

The State of Lower Saxony, represented by the Prime Minister of Lower Saxony, himself represented by State Secretary, Ms Birgit Honé,
the Federal Government, represented by the Federal Ministry of Transportation and Digital Infrastructure, represented by the GDWS, itself represented by President, Dr Hans-Heinrich Witte,
the district of Emsland, represented by District Administrator, Mr Reinhard Winter,
the district of Leer, represented by District Administrator, Mr Bernhard Bramlage,
the city of Emden, represented by Mayor Bernd Bornemann,
the environmental associations:
World Wide Fund for Nature Deutschland (WWF), represented by Director of Natural Conservation Germany, Dr Diana Pretzell,
Bund für Umwelt und Naturschutz Niedersachsen e.V. (BUND), represented by Chief State Executive, Mr Carl-Wilhelm Bodenstern-Dresler,
Naturschutz Niedersachsen e.V. (NABU), represented by State Director, Dr Holger Buschmann,
and Meyer Werft GmbH, represented by CEO, Mr Bernard Meyer - hereafter referred to as the Contract Parties - agree to the following:

Preamble

In light of the great significance of the Ems region as a habitat, natural environment, and economic area, the Contract Parties jointly accept their responsibility for this region with the objective of reconciling their equal ecological and economic interests.

They operate with the intent to restore the aquatic environment and to achieve the long-term development of the Ems estuary. The Contract Parties cooperate faithfully and constructively, and with the Ems region of Lower Saxony, in the spirit of good neighbourship. The Contract Parties acknowledge that appropriate and necessary measures must be taken to improve the ecological condition of the Ems while maintaining the river's status as an efficient federal waterway.

In acknowledgment of, and to fulfill the tasks stipulated by the European regulations of the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC), the Water Framework Directive (2000/60/EC), and the Marine Strategy Framework Directive (2008/56/EC), the Contract Parties operate with the strong desire to build on the declaration of intent signed on 16 June 2014, and to implement the agreed measures, as well as any that have not yet been agreed upon.

The following regulations form the necessary framework to this end.

Part I - General Terms

Article 1 Contract Objectives

- (1) This contract and its appendices forms a binding framework for "Masterplan Ems 2050" based on the declaration of intent signed on 16.06.2014. It also regulates the related cooperation among the Contract Parties.
- (2) Unless explicitly agreed otherwise in this contract, it will not justify any new public law responsibilities or rights and obligations beyond the existing legal regulations. Any regulations deviating from this term require explicit agreement.
- (3) Furthermore, additional obligations to implement the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC), the Water Framework Directive (2000/60/EC), and the Marine Strategy Framework Directive (2008/56/EC) remain unaffected by this contract.
- (4) The objective of the "Masterplan Ems 2050" is the sustainable development and optimisation of the Ems estuary with regard to naturalness, security, and accessibility. Ecological and economic interests must thus be reconciled. These include the restoration, maintenance and development of a sound and dynamic ecosystem, as well as the security of the economic growth in the region and maintenance of the Ems as an efficient federal waterway including the accessibility of its ports.
- (5) This means especially:
 1. the primary resolution of the silt problem in the Lower Ems,
 2. improvement of water quality in the tidal Ems with the intent of achieving favourable states of preservation in accordance with the respective directives:
 - a. reduction of upriver conveyance of solid materials,
 - b. improvement of water ecology (water quality, better living conditions for aquatic flora and fauna),
 3. creating and/or enhancing typical estuary habitats and species with the intent of achieving favourable states of preservation in accordance with the respective directives,
 4. conserving birds and their habitats,
 5. maintaining the efficient transportation route of the Ems federal waterway for ports on the Ems as well as the port and waterway-related economy.

Article 2

Spatial Applicability of the Contract

This contract applies to the Ems estuary, i.e. the Ems from the Herbrum sluice, Dortmund-Ems canal km 212.6 to the Ems km 67.76 (seaward limitation of the inland waterway). The Leda below the Leda Barrier is included.

Article 3

Terminology

1. "Security" as defined by this contract is dyke security and flood protection.
2. "Accessibility" as defined by this contract is the security and ease of shipping.
3. "Concept" as defined by this contract is the description of a possible project.
4. "Measure" as defined by this contract is a project that is intended to be implemented.
5. "Programme of measures" as defined by this contract is the compilation of measures under no. 4.

6. "Type of measure" is a measure implemented in the same manner as the objectives in no. 1.
7. "Planning permission for the Ems Barrier" in its current version is the planning authorisation for the Ems Barrier and determination of measurements from 14 August 1998 in the amended planning permission as per Section 75 paragraph 1a VwVfG from 22 July 1999, the amended planning permission from 24 March 2000, the adjusted planning permission from 16 May 2001, the adjusted planning permission from 23 May 2001, the amended planning permission from 1 November 2002, the adjusted planning permission from 7 May 2003, the adjusted planning permission from 17 June 2003, the adjusted planning permission from 2 July 2004, and the adjusted planning permission from 1 September 2014.

Part II - Organisation and Accountability - Administration of the Contract

Article 4 Committees

The following committees will be established to promote the objectives described in Article 1:

1. The Ems Steering Committee
2. The Ems Branch Office
3. Task forces

Article 5 Ems Steering Committee, Composition, Tasks, Working Method

- (1) The Steering Committee
 1. ensures the realisation of the overriding objectives described in detail in Part I,
 2. ensures the breakdown of the concepts and implementation of the measures of this contract,
 3. makes recommendations to the responsible administrative parties for implementing concepts and measures in order to achieve the overriding objectives described in detail in Article 1, and recommends the steps required for implementation,
 4. makes recommendations to the Contract Parties concerning the underlying updates of appendices of this contract.
- (2) Furthermore, the Steering Committee is responsible for
 1. supervising the Ems Branch Office,
 2. appointing task forces,
 3. determining the conceptual framework of public relations,
 4. evaluating the Masterplan Ems 2050 on a 5-yearly basis based on a status report to be compiled by the Ems Branch Office, and
 5. regularly submitting reports to the Contract Parties on the most pertinent developments in the implementation of the contract.
- (3) The Contract Parties are members of the Steering Committee, and each Party must appoint one executive-level voting representative to the Steering Committee.

- (4) The Steering Committee convenes once annually. Additional meetings may take place at the behest of one of the Contract Parties.
- (5) Decrees and recommendations from the Steering Committee are made unanimously.
- (6) If unanimity cannot be reached in the Steering Committee, the President of the Higher Regional Court of Celle will appoint a mediator with the intent of achieving unanimity.
- (7) The same applies in the event that there is disagreement between the Contract Parties concerning the interpretation, application, or execution of this contract.

Article 6

Responsibilities of the Ems Branch Office

- (1) The Ems Branch Office appointed by Article 4 no. 2 supports the work of the Ems Steering Committee and ensures the exchange of information between the Contract Parties (e.g. through a web-based communication platform).
- (2) Furthermore, in individual cases, the Ems Branch Office is responsible for public relations for the Masterplan Ems 2050 based on the conceptual framework drafted by the Steering Committee.
- (3) The Branch Office reports to the Ems Steering Committee in accordance with the responsibilities delegated by the Steering Committee. This includes an annual report and, every 5 years, a status report on the implementation progress for the Masterplan Ems 2050.
- (4) The Branch Office is located at the Regional Commissioner's Office for Weser-Ems.
- (5) Pursuant to Article 5 paragraph 2 no. 1, the Steering Committee regulates additional roles, personnel, and other necessary details that concern the Branch Office.

Article 7

Appointment and Responsibilities of the Task Forces

- (1) The Steering Committee will appoint Task Forces to address specific topics.
- (2) The role of the Task Forces is the regular and exclusive, constructive accompaniment of the topics, concepts, measures, questions, etc. delegated to them. This includes the provision of financing recommendations.
- (3) Staffing, delegation, responsibility, financing, reporting, etc., of the Task Forces are determined by the Steering Committee.

Article 8

Cooperation among the Contract Parties

- (1) The Contract Parties are obligated to cooperate faithfully, constructively, and with focus on the objectives.
- (2) The Contract Parties agree that the objectives stipulated by this contract concerning the agreed concepts and measures should be achieved swiftly and in accordance with legal regulations.

Article 9

Principles

- (1) The Contract Parties shall compile a programme of measures of the concepts and measures agreed upon as per Article 13 paragraph 4, in accordance with the quantitative and temporal determinations.
- (2) To this end, the Contract Parties shall utilise a comprehensive objective and evaluation system designed specifically for this purpose as the basis for their decision concerning the potential measures.
- (3) Accompanying monitoring will take place to follow and supervise progress in the Ems estuary. This monitoring will be conducted for all objectives listed in Article 1 paragraph 5, especially the parameters salt, oxygen, and suspended material content. This will build upon past monitoring and the mutual knowledge acquired from it. Monitoring will also be in place for regular assessment of the effects of the individual past or ongoing measures.
- (4) The decision-making for the programme of measures and the execution thereof will be guided by the following principles:
 1. Effectiveness of the measures
 2. Cost-efficiency of the measures
 3. Interdependencies of the measures
 4. Cooperation among the various parties
 5. Incorporation of scientific research
 6. Preservation of the internal relationship between programmes of measures and measures with regard to the objectives named in the Preamble and Part I of this contract, as well as the updated evaluation of the programme of measures.

Part III - Concepts and Measures

Article 10

Hydro-Engineering Measures for Resolving the Silt Problem and Improving Water Quality in the Lower Ems

- (1) In order to sustainably stem the upriver conveyance of sediment and thus resolve the silt problem in the tidal Ems, and to improve water quality, the following three approaches will respectively be pursued in comprehensive feasibility studies. The feasibility studies shall be drafted as quickly as possible. The evaluation of the hydro-morphological assessment for examining solution-based approaches to improve the ecological condition of the Lower Ems (FTZ assessment) from May 2014 will be incorporated into the feasibility study. The results, with help from a comprehensive objective and evaluation system, will be used to decide which of the three following approaches, or which combination thereof, should continue to be pursued for implementation.
- (2) This includes the possibility of authorising a temporally-coordinated implementation of partial measures, and thus a preliminary start to this measure.
- (3) The anticipatory decision in favour of implementation of measures may be made if certain knowledge of their sustainable contribution to the achievement of objectives is available, and if this knowledge does not contradict the implementation of further pursuance and combination with other potentially necessary measures or approaches to achieving objectives as per Article 1 paragraph 3.

- (4) In order to accelerate the decision-making process, evaluation factors that may already be pertinent to the determination of "feasibility" should be considered for the three solution-based approaches. Regardless of any preliminary commencement, Lower Saxony will lead the feasibility studies to completion under their scope of responsibility.
- (5) With the installation of a weir at the Ems Barrier (feasibility under the federal government's purview), the low tide of the Lower Ems, which has sunk in recent decades, should be raised considerably. The tide volume, and thus sediment conveyance into the Lower Ems, will be reduced at the outset, and the evacuation of the system through the ebb will be promoted. Furthermore, the weir is expected to reduce the momentum of the incoming tide. The feasibility study is currently expected to be completed by late 2016.
- (6) The tidal control at the Ems Barrier (feasibility under the state's purview) is expected to influence the expansion of the tides into the Lower Ems via the temporary constriction of the cross section of the Ems at the Barrier in such a way that the reduction of the tidal asymmetry will reduce the resulting conveyance of sediment. The former tidal volume should thus be maintained as much as possible in order to support the current cross sections of the Lower Ems. The feasibility study is currently expected to be completed by late 2016.
- (7) The tidal reservoirs on the Ems (feasibility study under the purview of the federal government) work through raising the tidal volume along with greater seaward conveyance of sediment. The tidal reservoir pilot measure in an oxbow lake north of Papenburg shall, for the option with the largest potential area requirements, sufficiently verify through validation of the hydro-morphological modelling results that the objectives can be achieved under consideration of interim morphological development, and not only in the short term. Management strategies for the necessary accommodation of long-term tidal polders must also be conceived. Suitable monitoring and accompanying mathematical modelling shall ensure that positive effects can also be recorded in other parameters of water quality in the tidal Ems. The tidal reservoir feasibility study and the pilot measure are currently expected to be completed by late 2018.
- (8) The feasibility studies include estimations of the following aspects:
 1. Technical feasibility
 2. Usage effects / level of achievement (with regard to the objectives of the Master Plan within and outside of the body of water, other uses)
 3. Land requirements
 4. Barriers of geographical distance
 5. Environmental risk analysis
 6. Water management compatibility (inland draining, flood and storm flood protection)
 7. Transportation compatibility
 8. Compatibility with other measures of the Masterplan Ems 2050
 9. Resilience of the measure against effects of rising sea levels
 10. Adaptability/re-adjustability of the measure
 11. Process and duration of planning/authorisation / implementation duration
 12. Approximate costs
- (9) A Task Force accompanies the drafting of the three feasibility studies and develops a coordinated measure recommendation based on the catalogues of objectives and assessments. The Steering Committee will then make a decision and recommend the necessary steps for implementation.

Article 11

Land Management

- (1) The state is solely responsible for immediately establishing a land management programme for measures for restoring a natural habitat under the direction of the Office for Regional State Development Weser-Ems.

The land yet to be acquired with land management includes

1. 200 ha by 2025,
 2. a total of 400 ha by 2035,
 3. a total of 600 ha by 2045, and
 4. a total of 700 ha by 2050,
- and the measures will be implemented by 2050. If land consolidation is necessary, the respective office will conduct it.
- (2) The borders of the primary target area for the land can be found in the appendix to this article.
 - (3) Should compensation or coherency areas be necessary for the implementation of the measures of the Masterplan Ems 2050 due to natural conservation areas, land from the pool of the aforementioned land management programme may be used to this end or counted toward the overall acquisition of 700 ha. All measures on land yet to be acquired or already owned by the state will be counted toward the 700 ha.
 - (4) As it has become clear that the land in Petkum is not available, 50 ha shall be acquired in 2015 for the further optimisation of meadow bird habitats. Should this not be successful, it must be immediately recovered.

Article 12

Measures in Coldemüntje, Knock and Oldersum Sluices, Herbrum

- (1) The plan for acquiring typical riparian habitats around the Ems loop near Coldemüntje while retaining the existing protective dyke line has begun (scenario no. 6 of the Bioconsult study perspective "Living Lower Ems"). The measure shall be implemented by 2020. At the same time, it will be determined whether free tides in the planned area can render additional ecological enhancement. This measure will not be counted toward the 700 ha.
- (2) The state has provided budget funds for ecological consistency at the Knock sluice. The extent to which improvement of the accommodation of the outer lock can also improve consistency will be determined. The state will draft a fundamental plan to this end.
- (3) The consistency at the Oldersum sluice can be improved. The two aforementioned measures (Oldersum and Knock sluices) will be worked on extensively. As the Oldersum sluice measure does not connect to any other sections of water, the potential to improve consistency at other sluices along the Ems (e.g. Sautel sluice) should be examined at a higher cost.
- (4) The federal government - GDWS - will take steps to improve the ecological consistency of the Herbrum weir by 2021.
- (5) Should the planning reveal that measures are not feasible, the acquisition of land as per Article 11 still applies.

Article 13

Determination of Other Measures and Concepts

- (1) Other measures and concepts must be determined to achieve the objectives of the Masterplan Ems 2050. The coordinated IBP Ems will serve as an advisory basis for the determination of these measures.
- (2) To this end, the measures shall serve 5/7 of the inland 700 ha for measures concerning typical estuary habitats and 2/7 of the inland 700 ha for meadow bird conservation, and be located outside of the existing FFH protected areas. However, in individual instances, optimisation measures extending beyond the favourable state of conservation may be examined for feasibility. The following types of measures shall be examined in particular:
 1. Creation of estuary habitats in tidal biotopes and polders; a two-step programme has been agreed: first the development of riparian forest, reeds, and tidal flats, and the establishment of aquatic estuary habitats after considerable reduction of the silt contamination in the Ems.
 2. Creation of inland meadow bird habitats.
 3. Improvement of consistency at sluices / pumping stations.
 4. Further examining the potential for the demolition of bank reinforcements and the opening of overflow dams.
- (3) The following target sizes for a total of 700 ha (plus Coldemüntje) are agreed in accordance with the regulation of Article 11 paragraph 3 of this contract:

Types of measure	by 2025	by 2035	by 2045	by 2050
Typical estuary habitats via tidal polders or backward relocation of dykes	152 ha (Holthusen, Coldemüntje)	153 ha	153 ha	72 ha
Land for inland meadow birds	78 ha	47 ha	47 ha	28 ha
Hectares	230	200	200	100

- (4) The measures and concepts are described in accordance with the appendix to this article.
- (5) The measures will be suggested by the Task Force and decided upon once annually by the Steering Committee, who will also recommend the steps required for implementation.

Article 14
Ems Nature Conservation Station

- (1) By spring of 2015, the Lower Saxony State Organisation for Water Management, Coast and Nature Conservation will establish an Ems nature conservation station for the Leer district in the state office in Leer as a branch office of the department for Nature Conservation, Brake-Oldenburg office.
- (2) Its responsibilities primarily include field research and active public relations on-site. The environmental associations will be involved in the nature conservation station's work from the outset.
- (3) The station will be staffed with two full-time employees.

Part IV - Regional Economic Structure

Article 15
Meyer Werft Location

- (1) As a global leader in the construction of cruise liners, Meyer Werft is an industrial centre for the region. This status, and its potential for growth, are significant for the regional economic structure. This importance for the region, the state of Lower Saxony, and the federal territory - especially employment and the fiscal aspects - is acknowledged.
- (2) In light of this, the Contract Parties intend to secure Meyer Werft's location in Papenburg.

Article 16
Shipping and Ports

- (1) The Contract Parties agree to implement appropriate measures to improve water quality in the tidal Ems, especially by reducing silt contamination, in the interest of more profitable business at the ports on the Ems.
- (2) The objective is the long-term preservation of the performance capacity of the Ems federal waterway as a seaward access point for the local ports and residents, as well as an inland connection via the Dortmund-Ems canal.
- (3) Measures for achieving these objectives will be decreed by the Steering Committee, who will also recommend the steps required for implementation.

Part V - Process for Securing the Location

Article 17
Process for Securing the Location of Meyer Werft

- (1) The adjustment of the planning permission of the Ems Barrier for extending the winter damming period from 15 March to 31 March of the respective year was made by the permit authorities on 1 September 2014.
- (2) With regard to the planned adjustment of the planning permission of the Ems Barrier for the period from 16 September to 31 October of the years 2015, 2016, 2017, 2018, and 2019, the state retroactively transferred project responsibility to the Emsland district and implemented the approval process.
- (3) The steps required for implementing measure no. 4b in the appendix to Article 13 paragraph 4 of this contract by the year 2020 will be implemented alongside the process named in paragraph 2.
- (4) The environmental associations declare that they will abstain from legal redress (including any redress already filed) against the plans described in paragraphs 1 and 2.

Article 18
Future Procedure for Securing the Location of Meyer Werft

- (1) In accordance with the bird conservation agreement between Meyer Werft and the environmental associations from 11 June 2009, the time frame for ship transfers through

Meyer Werft with the Ems Barrier is a summer dam (NHN +1.90 m) from 1 April to 15 July, and a winter dam (NHN +2.70 m) from 16 July to 31 March of a given year.

- (2) Prior to the necessary approval process, appropriate minimisation, compensation, and coherence measures must be drawn up. The results of these shall serve the consensual and swift execution of formal permit processes, but may not forestall the results and any potential judicial evaluation thereof.
- (3) The Steering Committee will promptly appoint a Task Force to this end. This Task Force's primary responsibility will be developing a system that can ensure compensation and coherence measures by the year 2017. Special attention must be paid to bird conservation.
- (4) Meyer Werft is obligated to keep the closure of the Ems Barrier for ship transfers as brief as possible.

Part VI - Financing

Article 19 Fundamentals of Financing

- (1) The state government has applied budget group 80 in the individual plan by the Department of the Environment, Energy, and Climate Protection in Chapter 1502 for the purpose of "Measures for Improving the Infrastructure and Implementing Natura 2000 on the Ems", and budgeted the necessary funds until 2018. This objective will be renamed "Measures for Implementing the Contract 'Masterplan Ems 2050'" in the 2016 fiscal year. As of 2019, the state government will consider the necessary funds for the implementation of this contract when drafting the budget plans and updating the respective interim financial planning.
- (2) The state and federal governments are responsible for financing the measures decided or agreed upon by them as per their respective purview.
- (3) A regulation concerning the financing of decreed or agreed measures within the purview of municipal authorities must be decided between the state and the respective municipal authority.
- (4) Furthermore, each Contract Party is responsible for paying their own respective personnel and material expenses.

Part VII - Closing Provisions

Article 20 Severability Clause

Should individual terms of this contract be entirely or partially invalid or infeasible, or should they become invalid or infeasible after conclusion of the contract, the validity of the remainder of the contract is unaffected. Any such invalid or infeasible term shall be replaced by a valid or feasible term that most closely resembles the effects of the objective of the initial term.

Article 21 Contract Relationship to Third-Party Rights and Obligations

The terms of this contract apply to the extent that other legally regulated rights and obligations of the Contract Parties are not affected.

Article 22
Amendment Process

- (1) Changes to this contract may be recommended by the members of the Ems Steering Committee.
- (2) Changes must be consensually agreed upon by the Contract Parties.
- (3) Changes agreed upon in writing by the Contract Parties come into effect on the date of the change being signed by the Contract Parties.

Article 23
Cancellation of the Contract

Only for compelling cause may this contract may be cancelled by the contract partners of the state of Lower Saxony in writing with a term of 6 months to the end of the year following the declaration of cancellation.

Article 24
Coming into Effect

This contract and its appendices come into effect on the day on which it is signed.