

~~2429~~ ~~July~~ ~~October~~ ~~20~~ ~~2018~~

Joint Recommendation regarding Fisheries Management Measures under Article 11 and 18 of the Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (CFP-Regulation) within the Natura 2000 sites Sylt Outer Reef, Borkum Reef Ground and Dogger Bank as Special Area of Conservation under the Habitats Directive 92/43/EEC of 21 May 1992, and the Natura 2000 site Eastern German Bight as Special Protection Area under the Birds Directive 2009/147/EC of 30 November 2009

1. **Process**

The Federal Republic of Germany (initiating Member State) is striving to take fisheries management measures in four Natura 2000 sites in the German Exclusive Economic Zone (EEZ) of the North Sea concerning all fishing vessels, including EU vessels with fishing rights in the German EEZ under non-German flag. In accordance with the CFP- Regulation and with the aim to apply the measures to all fishing vessels, Germany consulted the Member States having a direct management interest in the concerned sites as described in Article 11 and 18 of the Regulation (EU) No 1380/2013, i.e. Denmark, the Netherlands, Belgium, France, Sweden and the United Kingdom of Great Britain and Northern Ireland.

A proposal for a draft joint recommendation and the relevant information on the measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement has been subject to a national stakeholder consultation on 22 March 2016. Subsequently the draft has been submitted to member states having a direct fisheries management interest in the protected areas, to the North Sea Advisory Council (NSAC) and the European Commission according to Article 11 and 18 of the CFP Basic Regulation.

The proposal has been discussed on an international level in three pre-consultation meetings (on 27 June 2016, 31 January 2017 and 24 May 2017) with representatives of the Member States concerned. Additionally representatives of the EU COM (DG ENV and DG MARE), the NSAC and scientific experts have been involved in the pre-consultation process. By December 2017, all Member States concerned agreed that sufficient information was provided to proceed in accordance with Article 11 of the Regulation (EU) No 1380/2013.

The resulting German proposal of 9 January 2018 can be found in [Annex I](#) as a background document to this joint recommendation.

The proposed fisheries management measures were the basis of the negotiation process according to Art. 11(3) of Regulation (EU) No 1380/2013 , which started with the first formal meeting of the working group on 27 March 2018, followed by meetings of the working group on 3 May, 30 May 2018 and bilateral consultations on 14 August and 21 September.

Kommenterede [F1]: Chapter on process not amended yet; to be revised once agreement on new proposals has been reached.

As a result of this negotiation process, the measures of the proposal were modified, the full process is given in Annex II. The numbering of the measures was maintained to allow for the transparency of the process.

After adoption by the working group the resulting Draft Joint Recommendation was adopted finally in a written procedure launched on 27 November 2018 by all Directors General for Fisheries of the (regional North Sea) Scheveningen Group in December 2018/January 2019 (see list of signatures in Annex II).

Germany, Belgium, Denmark, France, the Netherlands, Sweden and the United Kingdom recommend the proposed fisheries management and control measures described in sections 4 and 5 jointly to the EU COM for developing a delegated regulation.

The fishing activities in the German EEZ of the North Sea and the relevance of the proposed management measures to the commercial fisheries have been analysed and described in detail in a supplement document ([Annex III](#)).

2. Key objectives and aims of the Joint Recommendation

In the German EEZ of the North Sea, three Special Area of Conservation and one Special Protection Area have been proposed by the Federal Republic of Germany to the EU COM in May 2004.

In accordance with Article 4, paragraph 4 of the Habitats Directive, once the sites are entered in the European Commission's Community list, Germany is obliged to draft management plans as soon as possible, and at the latest within six years, to ensure the maintenance or restoration of the favourable conservation status of species and habitats.

Germany is also obliged to establish measures, which need to be taken in order to achieve or maintain a "good environmental status" according to the Marine Strategy Framework Directive (MSFD).

The specific aims of this joint recommendation are:

- to ensure the protection of the habitat types sandbanks (H 1110) and reefs (H1170), and harbour porpoise within the German Natura 2000 sites in the German EEZ in the North Sea from negative impacts of fisheries, thereby contributing to the obligation to ensure the maintenance or restoration of the favourable conservation status of these habitat types and species in accordance with Article 6 of the Habitats Directive.
- to prevent deterioration of sea birds within the Natura 2000-site Eastern German Bight from negative impacts of fisheries in accordance with the Birds Directive in order to ensure their survival and reproduction in their area of distribution.
- to reach progress towards the targets of the MSFD; specifically in relation to descriptor 1 "biological diversity" and descriptor 6 "sea-floor integrity" by protecting seafloor areas

comprising the biotope type 'Species-rich gravel, coarse sand and shell-gravel areas' from negative impacts of fisheries which has been identified as "other habitat type"

The proposed fisheries management measures will substantially contribute to the "favourable conservation status" and the "good environmental status" of the areas and will affect fisheries only to a limited extent (see Annex III).

The proposed measures are proportional with respect to the requirements of the MSFD, Habitats and Birds Directive and are applied in a non-discriminative manner due to close coordination with Member States having a direct management interest in the concerned sites as described in Article 11 and 18 of Basic Fisheries Regulation.

3. Natura 2000 sites in the German EEZ of the North Sea concerned

The present joint recommendation entails fisheries management measures in the following Natura 2000-sites that have been designated in the German EEZ in the North Sea (see Figure 1):

- Sylt Outer Reef, Special Area of Conservation (SAC) under the Habitat Directive)
- Borkum Reef Ground, SAC under the Habitat Directive
- Dogger Bank, SAC under the Habitat Directive, and
- Eastern German Bight, Special Protection Area (SPA) under the Birds Directive.

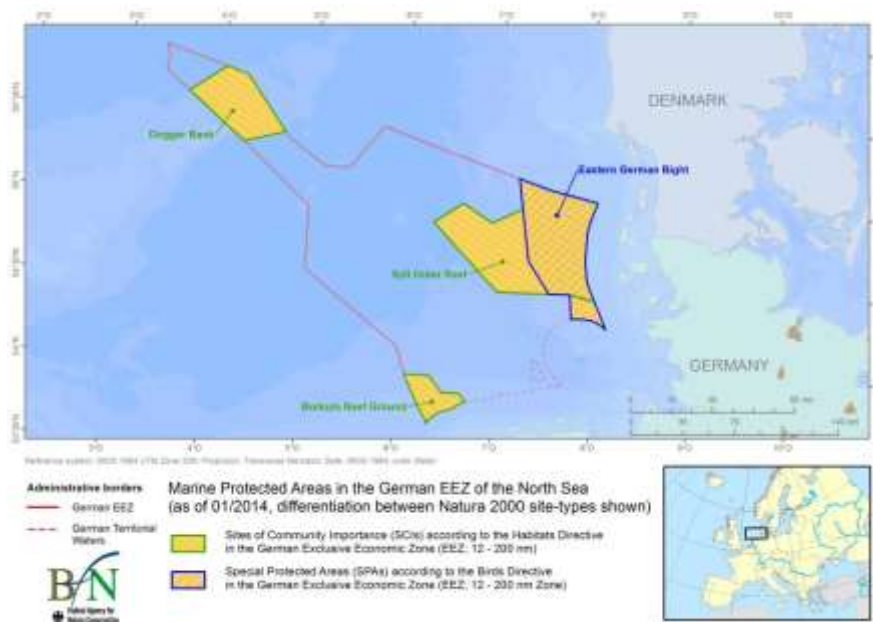


Figure 1: Natura 2000 sites in the German EEZ in the North Sea designated on the basis of the Habitats Directive and the Birds Directive.

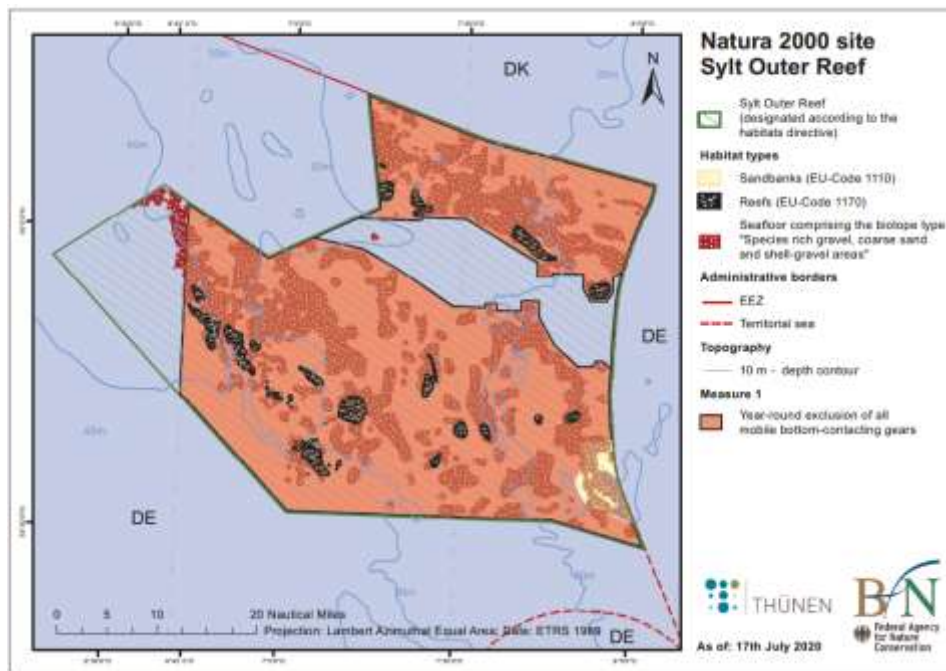
4. Proposed measures

In accordance with Articles 11 and 18 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (OJ L 354, 28.12.2013, p. 22, CFP Basic Regulation), the present document proposes the following fisheries management measures in the Natura 2000 sites in the German EEZ in the North Sea:

Natura 2000 sites "Sylt Outer Reef" and "Eastern German Bight"

Measure 1

Year-round exclusion of all mobile bottom-contacting gears (for gear codes see Table 1) from ~~two~~three management zones – separated by attwo fishing corridors – in the central and eastern area of the Natura 2000 site Sylt Outer Reef to protect the habitat types 1110 'Sandbanks' and 1170 'Reefs' and seafloor areas comprising the biotope type 'Species-rich gravel, coarse sand and shell-gravel areas' (Figure 2).



Kommenterede [F2]: New proposal of measure 1

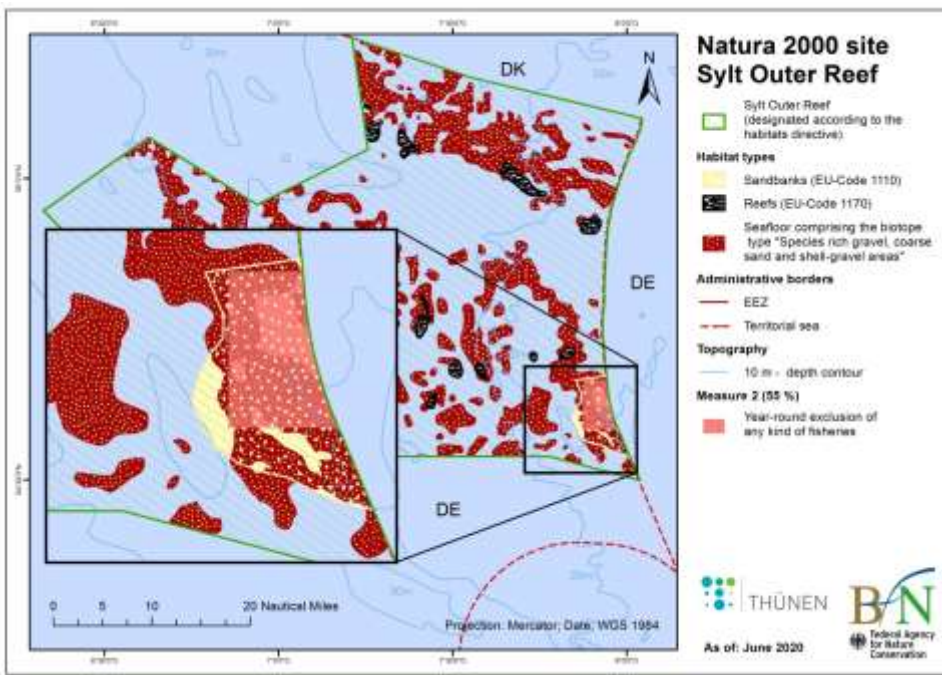
Figure 2: Measure 1: Year-round exclusion of all mobile bottom-contacting gears in ~~two~~three management zones within the central area of the Natura 2000 site Sylt Outer Reef.

Table 1: Gear codes for the mobile bottom-contacting gear types to be excluded by measure 1

Gear category	Gear types and codes according to Annex XI of EU Regulation No. 404/2011
Beam Trawling	<ul style="list-style-type: none"> • beam trawls TBB
Bottom/Otter Trawling	<ul style="list-style-type: none"> • bottom otter trawls OTB • bottom pair trawls PTB • otter twin trawls OTT • bottom trawls (in general) TB • nephrops bottom trawls TBN • shrimp bottom trawls TBS
Demersal Seines	<ul style="list-style-type: none"> • beach seines SB • Danish seines SDN • Scottish seines SSC • pair seines SPR • seines (unspecified) SX • boat seines SV
Dredging	<ul style="list-style-type: none"> • boat dredges DRB • hand dredges used on board a vessel DRH • mechanised dredges including suction dredges HMD

Measure 2

Year-round exclusion of any kind of fisheries from ~~2555%~~ (in the central and northern part) of the area of the Amrum Bank (habitat type 1110 'Sandbanks' according to the Habitats Directive) in the Natura 2000 site Sylt Outer Reef. The measure 2 aims to protect the Amrum Bank and the biotope type 'Species-rich gravel, coarse sand and shell-gravel areas' according to the MSFD from any disturbance of any fishing activities (Figure 3). An evaluation of the effectiveness of this measure is planned eight years after its implementation.



Kommenterede [F3]: new proposal of measure 2

Figure 3: Measure 2: Year-round exclusion of any kind of fisheries from ~~2555%~~ (northern part) of the area of the Sandbank "Amrum Bank" in the Natura 2000 site Sylt Outer Reef.

Measure 3:

Year-round exclusion of fisheries with set gillnets and entangling nets (for gear codes see Table 2) Limitation of fishing effort with passive gears (gillnets and entangling nets, for gear codes see Table 2) to the average effort of the last 6 years before the coming into force of the corresponding delegated act in the Natura 2000 site Eastern German Bight and in the eastern parts of the Natura 2000 site Sylt Outer Reef.

This measure aims to protect key seabird species that are protected under the Birds directive and for which the SPA Eastern German Bight has been designated, in particular: the endangered seabird populations (red-throated diver (*Gavia stellata*), and black-throated divers (*Gavia arctica*), common guillemot (*Uria aalge*), razorbill (*Alca torda*), common scoter (*Melanitta nigra*) and northern gannet (*Morus bassanus*) razorbills and guillemots in particular) in the Natura 2000 site Eastern German Bight. The purpose of the site designation is to maintain and restore this unique marine area in its function as a feeding, wintering, moulting, transit and resting site for many endangered bird species and thereby to restore the population size and quality of the bird species.

At the same time, this measure aims to protect and harbour porpoises in the eastern parts of the Natura 2000 site Sylt Outer Reef (Figure 4).

Kommenterede [F4]: Original German proposal (JR 24th April 2018)

Kommenterede [F5]: More information on protected seabirds as requested by COM.

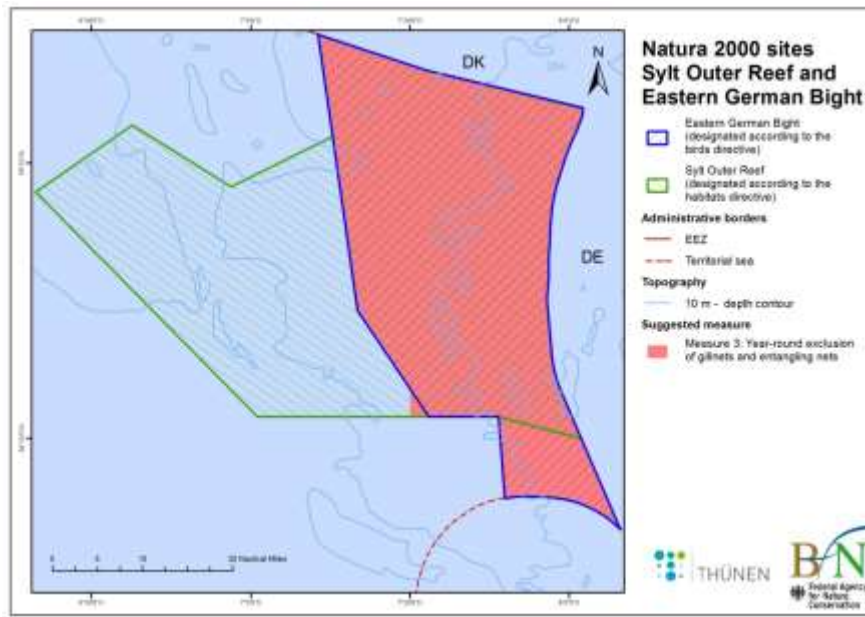


Figure 4: Measure 3: Year-round exclusion of fisheries with set gillnets and entangling nets Limitation of fishing effort with passive gears (gillnets and entangling nets, for gear codes see Table 2) to the average effort of the last 6 years before the coming into force of the corresponding delegated act to protect the endangered seabird populations in the Natura 2000 site Eastern German Bight and harbour porpoises in the eastern parts of the Natura 2000 site Sylt Outer Reef.

Table 2: Gear types and codes for passive gear types (gillnets and entangling nets) to be managed for the protection of harbour porpoises and birds within the management zones of the Natura 2000-sites (measures 3 and 4)

Gear category	Gear types and codes according to Annex XI of EU Regulation No. 404/2011
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Gillnet	<ul style="list-style-type: none">• gillnets GN• set (anchored) gillnets GNS• driftnets GND• encircling gillnets GNC
Trammel nets	<ul style="list-style-type: none">• trammel nets GTR• combined trammel and gillnets GTN

Formateret: Dansk

Measure 4

Seasonal exclusion of fisheries with set gillnets and entangling nets. Limitation of fishing effort with passive gears (gillnets and entangling nets, for gear codes see Table 3) to the average effort of the last 6 years before the coming into force of the corresponding delegated act in the western part of the Natura 2000 site Sylt Outer Reef from 1st March to 31st October to protect harbour porpoises from by-catch in phases of high animal aggregation including the calving and mating season (Figure 5).

Kommenterede [F6]: Original German proposal (JR 24th April 2018)

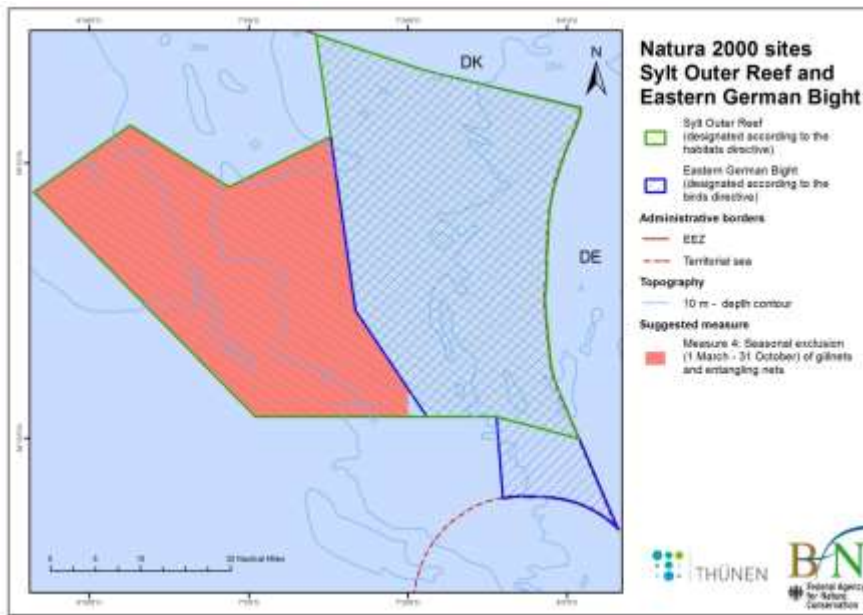


Figure 5: Measure 4:

Seasonal exclusion of fisheries with set gillnets and entangling nets. Limitation of fishing effort with passive gears (gillnets and entangling nets, for gear codes see Table 3) to the average effort of the last 6 years before the coming into force of the corresponding delegated act from in the western part of the Natura 2000-site Sylt Outer Reef during the period 1st March-31st October to protect harbour porpoises from bycatch.

Table 3: Gear types and codes for passive gear types (gillnets and entangling nets) to be managed for the protection of harbour porpoises and birds within the management zones of the Natura 2000-sites (measures 3 and 4)

Gear category	Gear types and codes according to Annex XI of EU Regulation No. 404/2011
Gillnet	<ul style="list-style-type: none"> • gillnets GN • set (anchored) gillnets GNS • driftnets GND • encircling gillnets GNC
Trammel nets	<ul style="list-style-type: none"> • trammel nets GTR • combined trammel and gillnets GTN

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Natura 2000 site "Borkum Reef Ground"

Measure 5

Kommenterede [F7]: Original German proposal (JR 24th April 2018)

Year-round exclusion of all mobile bottom-contacting gears (for gear codes see Table 4) from ~~the management area within~~ the entire Natura 2000 site Borkum Reef Ground to protect the habitat types 1110 'Sandbanks' and 1170 'Reefs' and seafloor areas comprising the biotope type 'Species-rich gravel, coarse sand and shell-gravel areas' (Figure 6)

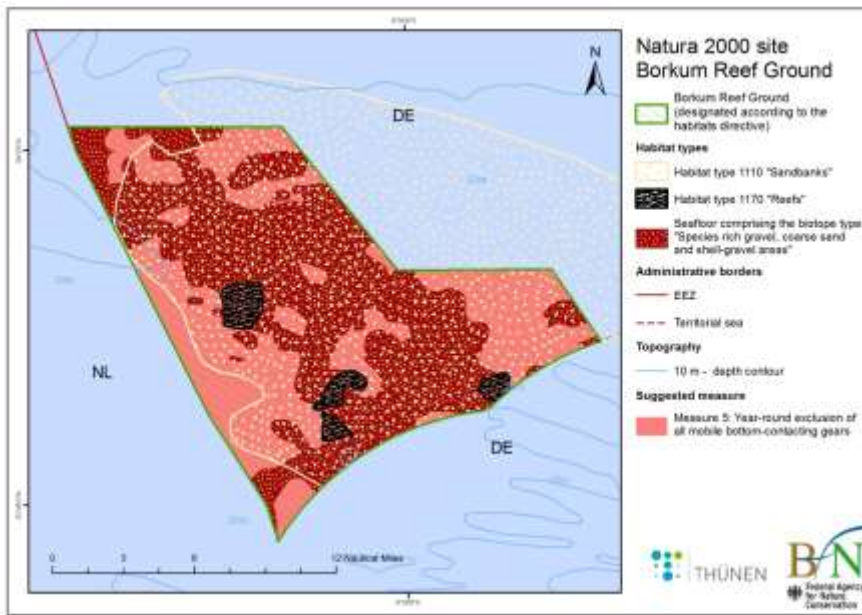


Figure 6: Measure 5: Year-round exclusion of all mobile bottom-contacting gears from the entire management-area ~~within the~~ Natura 2000 site Borkum Reef Ground

Table 4: Gear codes for the mobile bottom-contacting gear types to be excluded by measure 5

Gear category	Gear types and codes according to Annex XI of EU Regulation No. 404/2011
Beam Trawling	<ul style="list-style-type: none"> beam trawls TBB
Bottom/Otter Trawling	<ul style="list-style-type: none"> bottom otter trawls OTB bottom pair trawls PTB otter twin trawls OTT bottom trawls (in general) TB nephrops bottom trawls TBN shrimp bottom trawls TBS
Demersal Seines	<ul style="list-style-type: none"> beach seines SB Danish seines SDN Scottish seines SSC

	<ul style="list-style-type: none"> • pair seines SPR • seines (unspecified) SX • boat seines SV
Dredging	<ul style="list-style-type: none"> • boat dredges DRB • hand dredges used on board a vessel DRH • mechanised dredges including suction dredges HMD

Natura 2000 site "Dogger Bank"

Measure 6 – (For informational purposes only)

Measures for the protection of the habitat type 1110 'Sandbanks' on the Dogger Bank will be subject of a joint proposal of NL, UK and D.

Natura 2000 sites "Borkum Reef Ground" and "Dogger Bank"

Measure 7

Limitation of fishing effort with passive gears (gillnets and entangling nets, for gear codes see Table 2) to the average effort of the last 6 years before the coming into force of the corresponding delegated act to protect porpoises in the entire area of the Natura 2000 sites Borkum Reef Ground and Dogger Bank.

5. Control and enforcement

The following control measures are proposed to be adopted; in case of a revision of the existing EU fisheries control system, the amended rules will apply accordingly to the control measures as far as the rules proposed below do not foresee stricter control rules:

Kommenterede [F8]: New text because of the ongoing revision of the EU Fisheries Control Regulation.

The provisions shall apply to all fishing vessels of 12 m length overall or more intending to enter into or transit through the specific fishing restricted areas laid down in section 4

1. In accordance with Article 50(3) of Regulation (EC) No 1224/2009, the VMS signal rate is to be increased to once every 30 minutes within the marked fishing restricted areas. The following data are to be transmitted: position, date and time, heading, speed, external identification mark of the fishing vessel
2. Additional 4-nm alarm zones are to be established around the fishing restricted areas. Upon entry into the alarm zone, the VMS reporting frequency is to be increased to 30 10-minute intervals, which is then to be maintained as long as the vessel remains in the fishing restricted area and in the alarm zone. Fishing within the alarm zone is not subject to restrictions. The competent fishing authority is informed on the entry into, and exit from the alarm zone
3. All fishing vessels entering the alarm zone or the fishing restricted area must be equipped with an appropriate VMS system. It is not allowed to enter such areas without this equipment. Both the fishing gear carried on board and fishing gear used are recorded in the electronic logbook
4. Transit through a fishing restricted area within the Natura 2000-sites is allowed for all fishing vessels that are not authorised to fish in these areas subject to the following conditions:
 - a. all gears carried on board are lashed and stowed during the transit; and
 - b. the speed during transit is not less than six knots except in case of force majeure or adverse conditions. In such cases, the master shall immediately inform the fisheries

Kommenterede [F9]: Original German proposal (JR 24th April 2018)

monitoring centre of the flag Member State which shall then inform the competent authorities of the coastal Member State.

Compliance with the requirements is controlled by the competent German fisheries control agency (Federal Office for Agriculture and Food - BLE). BLE evaluates the VMS and the electronic logbook data on the fishing gear used and carries out on-spot monitoring (e.g. with ships) and inspections of catches, catch records and fishing gear.

~~Provisions 1 to 4 shall come into force one year after the entry into force of the delegated regulation.~~

6. Monitoring

General considerations

The Habitats Directive (92/43/EEC), the Birds Directive (79/409/EEC, amended to 2009/147/EC) and the Marine Strategy Framework Directive (MSFD, 2008/56/EC) define requirements for monitoring and reporting which are also relevant for evaluating the effectiveness of proposed management measures.

Through the Habitats Directive, the European Union sets requirements to maintain and/or restore a favourable conservation status for the habitat types and species covered by the Directive. A comprehensive assessment, monitoring and reporting of the conservation status is an obligation arising from Articles 11 and 17 of the Habitats Directive for all habitat types and species listed in the Directive's annexes. The status is assessed every six years.

Articles 10 and 12 of the Birds Directive promote research related to the protection and management of bird species covered by the Directive and obliges member states to submit reports on the status and trend of bird populations every three years.

Article 11 of the Marine Strategy Framework Directive prescribes broad-based marine monitoring of biological parameters for assessing environmental status, on the basis of the initial assessment according to Article 8 and the environmental targets established pursuant to Article 10 to reach the good environmental status. Reporting takes place every six years.

These obligations are the basis for an effective monitoring and assessment of the status of the managed and protected features in the Natura 2000 sites in the German North Sea EEZ. This monitoring is achieved within programmes coordinated by the Federal Agency for Nature Conservation (BfN) in cooperation with national marine research institutes.

In the following, the monitoring programmes which will be developed or which are already implemented to assess the effectiveness of the fisheries management measures proposed in the present Joint Recommendation are described:

Marine vertebrates

An important element of the German marine monitoring programme is the long-term monitoring of marine mammals and seabirds in the German Exclusive Economic Zone (EEZ). On commission from the Federal Agency for Nature Conservation (BfN), the monitoring is conducted

Kommenterede [F10]: New chapter on monitoring as requested by COM

jointly by the University of Kiel West Coast Research and Technology Centre (FTZ), Deutsches Meeresmuseum (DMM) and the Hannover University of Veterinary Medicine Institute for Terrestrial and Aquatic Wildlife Research (ITAW).

Harbour porpoises

Censuses of harbour porpoises are conducted via flight transect surveys. Survey flights are carried out at regular intervals. Every third year (e.g. 2012, 2015, 2018), in spring, summer and autumn a survey covering the whole German North Sea is conducted. In addition, surveys focusing on areas with high porpoise densities and areas with high numbers of calves are conducted several times every year: In summer two surveys are carried out in the Natura 2000 site Sylt Outer Reef and in spring two surveys are conducted in the Natura 2000 site Borkum Reef Ground. In addition to the flight censuses, a long-term beach monitoring programme is in place, which includes counts of the numbers of stranded dead animals and the collections of the cadavers to examine their body condition as well as the causes of death.

Seabirds

Important offshore resting areas and migration routes of seabirds in the North Sea are monitored using aerial as well as vessel-based transect surveys. The current monitoring programme for seabirds is primarily focused on monitoring divers, little gulls, quillmots, razorbills and sea ducks. Annual aerial surveys covering the whole German North Sea EEZ are carried out alternately in summer and winter. Additional surveys of the Natura 2000 site Eastern German Bight are carried out every second year, in winter and spring

Benthic habitats

In 2011, the Federal Agency for Nature Conservation tasked the Alfred Wegener Institute for Polar and Marine Research (AWI) and BIOCONSULT with initiating and establishing a benthic monitoring programme to meet the obligations of the Habitats Directive and the MSFD applicable in the German North Sea EEZ. In addition to the conceptual development of the monitoring programme, the project also included the practical implementation and the development and adaptation of suitable assessment indices.

In 2020, an additional comprehensive research project has been granted to the Deutsche Allianz Meeresforschung (DAM) entitled „Exclusion of mobile bottom contacting fishing gear in Marine Protected Areas in the German EEZ of the North Sea” to explicitly support the monitoring of the effectiveness of the implementation of fisheries management measures.

The main target of the project is the analysis of the conservation status of the Natura 2000 sites in the German EEZ to study the long-term effects of the exclusion of mobile bottom-contacting fishing gears on benthic habitats and communities with a Before-After-Control-Impact (BACI) approach. Hereby, areas inside and outside of the Natura 2000 sites Sylter Outer Reef, Borkum Reef Ground and Doggerbank will be investigated and monitoring stations established.

The study will follow a holistic eco-systematic approach taking into account physical and biological impacts of bottom contacting fishing gears on benthic fish, invertebrates, microbes and marine food webs. The assessment of the conservation status of the protected benthic habitats and species will be based on the MSFD descriptors D1 biodiversity, D3 fish stocks, D4 food webs and D6 seafloor.

One of the main outcomes of the project will be a monitoring concept to study the conservation status of the protected benthic features in the Natura 2000 sites in the German EEZ and to assess the effectiveness of the fisheries management measures in the long-term.

6.7. Coordinates of fishing restricted areas

Please see enclosed annex IV

List of annexes

Annex I

Background document as of 9 January 2018

Annex II

Process and results of the negotiation process towards a joint recommendation

Kommenterede [F11]: Information regarding process and negotiation needs to be completed when an agreement is reached.

Annex III

International fishing activities (2012-2016) in German waters in relation to the designated Natura 2000 areas and proposed management within of 8 January 2018

Annex IV:

Coordinates of fishing restricted areas (management zones)