

10 September 2012

Dear colleagues,

The FIMPAS project (project to develop fisheries measures in the marine protected areas of the Dutch part of the North Sea) is coming to its conclusions and hence to its end. We met in plenary at the third and last workshop of the project which was held in Den Helder (Netherlands) on 24 – 26 January 2011 (FIMPAS 3). At that workshop we made a certain number of important commitments. In a very brief summary these commitments were:

- A general agreement on the fisheries measures in the Frisian Front;
- That the FIMPAS Steering Group was to take decisions with regard to the fisheries measures on the Cleaver Bank, following a discussion with the industry on their proposals on the Cleaver Bank;
- That the Member States of the Dogger Bank (UK, Germany, Denmark and the Netherlands) were to continue their discussions on a common fisheries regime for their respective parts of the Dogger Bank.

Through this communication we want to inform you with regard to the development of the process since the Den Helder workshop in January 2011 (FIMPAS 3).

#### *Frisian Front*

For the Frisian Front we concluded that a ban on gillnetting in the period 1 November – 1 May would be sufficient to contribute to the achievement of the conservation objectives. The Dutch fishing sector suggested that different types of gill-netting also have different impact on inter alia sea bird populations and that therefore the management regime should account for such differences, but the results of the subsequent literature review by the sector did not provide any basis for this. This means that the FIMPAS 3 agreement stands and will form the basis of our proposed fisheries measures for the Frisian Front.

#### *Cleaver Bank*

For *Cleaver Bank*, you will remember that we could not close the debate on a proposal by the FIMPAS Steering Group (to ban beamtrawling and otterboard trawling in H1170, with the exception of the Botney Cut). At FIMPAS 3 we agreed that the Fishing sector would present an alternative proposal within one month, and that the FIMPAS Steering Group would decide on the proposal to be taken forward. Subsequently, a group of industry representatives presented a proposal to the FIMPAS Steering Group on March 11, 2011. This proposal was assessed by the Steering Group and reviewed – on the request of the Steering Group - by two independent experts (Dr. C Laban at Marine Geological Advice, and Dr. M.S.S. Lavalaye at NIOZ / Netherlands Institute for Sea Research), after which the industry made further amendments to complete a final proposal to the Steering Group on May 9, 2011.

Upon receiving that proposal the FIMPAS Steering Group found, also based on the experts reviews, that the new industry proposal did not meet the criteria agreed at FIMPAS 3. The Steering Group did, however, decide to amend its original proposal as tabled at FIMPAS 3, to take account of the new information provided by the Industry. This led to a zoning proposal of Cleaver Bank: (a) the Botney Cut, in which beam trawling is banned but otter board trawling is allowed; (b) a zone with no bottom contact fisheries allowed, the zone is located in the areas with dominant presence of Habitat H1170; and (c) a zone with no restriction on fisheries located on predominantly sandy areas. A full account of the Cleaver Bank proposal (in terms of both process and substance) is contained in the relevant Steering Group report<sup>1</sup>, including a map of the zoning proposal. This new Steering Group proposal was published on 11 June 2011 and stakeholder views were solicited. These views were presented to the Steering Group on June 30 (sector) and July 14 (NGO's) 2011. Unfortunately these views were a world apart; the NGOs wanted rather a full closure of Cleaver Bank and at least to go back to the original FIMPAS Steering Group proposal from the FIMPAS 3 workshop. The Sector maintained its own 9 May proposal.

Faced with these widely opposing views, the FIMPAS SG did not make any further amendments to its proposal

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<sup>1</sup> A new proposal for fisheries measures on the Cleaver Bank by the FIMPAS Steering Group, June 10, 2011.

and decided to uphold its 11 June 2011 decision. NGOs and sector were, however, invited (most recently, on 19 January 2012) to try to reconcile their opposing views. It was made clear to stakeholders (sector and NGOs), based on the views received after June 11, that the 11 June proposal would remain unchanged, unless a joint initiative of the industry and NGOs would be brought about resulting in an alternative proposal. NGOs saw very little room for coming to agreement. In spite of the intention of the Dutch Fisheries Product Board to host a half day meeting to assess the differences in views and to see if they could be bridged, no results were achieved.

In spite of the controversies, we assess that thanks to the efforts of the industry, bringing new information to the process, the Cleaver Bank proposal has improved. It now targets better areas of the location of the H1170 habitat type. The Steering Group has created more fishing opportunities. Furthermore, the Dutch government will probably adapt the boundaries of the site, moving it slightly to the North. Thus more marine reef areas are included and protected, and areas that do not contain this habitat type will no longer be included in the site.

### *Dogger Bank*

At the Den Helder workshop (FIMPAS 3) we agreed that the Member States around the Dogger Bank were to develop a common fisheries management regime for the whole of the Natura 2000 site. Thus, in Copenhagen in May 2011 the Dogger Bank Steering Group (DBSG) was established. The group was composed of representatives of the four states. Furthermore the European Commission was invited to act as an observer. The EC accepted the invitation and two representatives of the EC, (one from DG MARE and one from DG ENVI) attend the meetings of the DBSG. Furthermore Paul Connolly and Eugene Nixon were invited to attend the meetings as observers. The DBSG is serviced by the ICES secretariat (Hans Lassen). Ton IJlstra was elected as the neutral chair of the DBSG. After this meeting and with the establishment of the NSRAC Focus group, DBSG invited the North Sea RAC to send two observers to the DBSG and these participated in the October 2011 meeting.

In November a stakeholders meeting was held in Dublin. Parallel with the DBSG process the North Sea RAC's working group on spatial planning chaired by Euan Dunn worked towards presentation of a joint proposal. To allow the presentation of the different views of industry and NGO's the stakeholder observers were extended from 2 to 3 observers. During 2012 Euan Dunn chaired the Focus Group in which the stakeholders and the states cooperated to develop a common proposal. Unfortunately, in spite of the efforts of all parties to find common ground a joint proposal was close to adoption but lacked the necessary support in the end, as reported in the NSRAC position paper from April 2012. Therefore the NGOs and the Fishing Sector both presented their own proposals in this RAC position paper to the DBSG. Much had been done by all parties to find an agreement, but in the end the DBSG had to reach the conclusion that it would have to develop an alternative draft-proposal itself. Which it did. In its proposal the DBSG proposes to establish a closed area in the whole of the Dogger Bank of some 33% of the surface of the SAC. The DBSG considers this draft proposal as striking the right balance between environmental protection (the achievement of the conservation objectives) and economic fisheries activities. It has been presented to ICES on Tuesday 4 September, together with the proposal by the sector and proposal by the NGOs. See also the paragraph on the procedure *infra*.

### *Mammals*

Because *harbour porpoise* are highly mobile, FIMPAS 3 suggested the development and implementation of a species protection plan and the possibility of capping effort on a regional scale, instead of developing site specific measures. Such a Harbour Porpoise Conservation Plan has been developed in the Netherlands by Kees Camphuysen at NIOZ / Netherlands Institute for Sea Research, and Marije Siemensma at Marine Science and Communication. The plan presents a scientific state of the art, a research agenda and proposes policy measures. It has been developed in co-operation with stakeholders, and it is currently being implemented by the Dutch government. For *seal species*, FIMPAS 3 concluded that no site specific measures for fisheries would be needed.

### *Procedure*

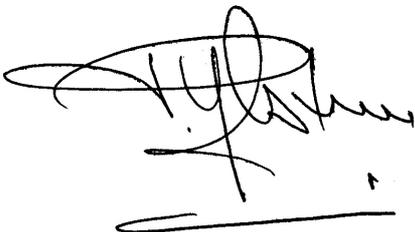
The reason for bringing these matters to your attention at this time relates to the fact that we have made important decisions with regard to the draft-proposals. Last week, the FIMPAS Steering Group and the Dogger Bank Steering group adopted the draft-proposals which have been submitted to ICES, for independent scientific review and to obtain scientific advice on whether the proposed measures meet the conservation objectives for the sites. You will find the request on the ICES sharepoint. The key question to ICES will be as to whether the proposed measures will help to bring about the conservation objectives. You will remember that this step was

anticipated from the outset, and we consider this to be a very important moment in the development of the process.

We hope that ICES can respond with an advice to the Steering Groups before the first of November. In November we will consider the ICES advice and the next steps to be taken will be dictated by that advice. If the advice enables us to proceed, we will most probably start working on the draft-proposals on the Frisian Front, the Cleaver Bank and the international Dogger Bank for the European Commission. As fisheries measures come under the scope of the Common Fisheries Policy (CFP), the European Commission is the competent authority to take legally binding decisions. Subsequently the Member states will have to get their internal clearance for the different proposals: the Netherlands for the Frisian Front and the Cleaver Bank, and Germany, United Kingdom and the Netherlands and in parallel will need to follow internal procedures for the Dogger Bank. The next step in our procedure will be to submit the final draft-proposals to the EC. The EC will deal with these proposals in accordance with its own internal procedures.

We hope we have given you a useful summary and insight into the relevant processes we have followed which will ultimately lead to a fisheries regime that contributes to a meaningful protection of the important natural values of the North Sea.

With regards



Ton IJlstra

Chair of the FIMPAS and Dogger Bank Steering groups



Dr. Paul Connolly

Chair of the FIMPAS and Dogger Bank processes