

Proposed Joint Recommendation for conservation measures necessary to comply with obligations under Union environmental legislation

Date: 18-12-2024

1. Background

The Netherlands (initiating Member State) is striving to take the conservation measures necessary for compliance with obligations under Article 13(4) of Directive 2008/56/EC, Article 4 of Directive 2009/147/EC and Article 6 of Directive 92/43/EEC. Article 11 and 18 of Regulation (EU) No 1380/2013 provides the legal basis to adopt conservation measures.

Conservation measures on the Frisian Front, Cleaver Bank and Central Oyster Grounds are effectuated since 8 March 2023.¹ Furthermore, a proposal for the Natura 2000 site Dogger Bank was submitted to the European Commission on 19 October 2023. However, additional conservation measures are necessary to fulfil the obligations under the aforementioned Union environmental legislation. The proposed measures in this document are expected to contribute towards fulfilling these obligations.

Member States having a direct management interest in the fishery, have been consulted and have agreed with the submission of this Joint Recommendation (JR) to the European Commission on 23 October 2024. This JR is proposing conservation measures in the concerning areas, in accordance with Article 11, 18 and 46 of Regulation (EU) No 1380/2013.

The JR should be read in conjunction with the general- and area specific Background Document(s). The general Background Document details all general information applicable to all areas, including the legal framework, control and enforcement, and monitoring. The area specific Background Documents focus on each individual area and describe, amongst others, the natural features, the fishing activity and other human activities on the site.

1.1. Process

The process of these proposed measures has been communicated at the following moments:

- The Dutch North Sea Agreement (NSA) was finalised and sent to the House of Representatives of the Netherlands on 19-06-2020.
- The foreseen conservation measures resulting from the NSA were first presented in an ad-hoc technical group organized by the initiating Member State on 08-12-2020.
- The NSA was adopted by the House of Representatives of the Netherlands on 27-01-2021.
- An update on the national process on all conservation measures was presented in the "High Level Scheveningen Group" of 11-03-2021 and FISH-ENVI technical group meetings on 15-04-2021, 15-06-2021, 15-09-2021 and 06-12-2021.
- National stakeholders were consulted on the proposed measures, general- and site specific Background Documents on 02-11-2021.
- Adjustments in the measures were communicated to the national stakeholders on 11-05-2022.
- On 06-07-2022, a first presentation of the proposed measures was given to Member States with a direct interest in the management of the fisheries.
- A new data call to include 2020 and 2021 fisheries data was sent out and the received data was included in the background documents.
- On 09-03-2023, the updated versions of the JR and the Background Documents were presented to Member States with a direct interest in the management of the fisheries.
- On 21-06-2023, the Netherlands provided information on bilateral meetings that were held, further comments they received from Member States and the changes that were made to the documents.
- On 19-10-2023, the Netherlands received the final 'sufficient information' from all Member States with a direct interest in the management of the fisheries.
- The Netherlands formally asked the North Sea Advisory Council (NSAC) for advice on the proposed measures, general- and site specific Background Documents on 28-07-2023.
- On 18-9-2023, the Netherlands received advice from NSAC. A couple of points were included in the documents.
- On 21-03-2024, the JR, general background document and area-specific background documents were sent to the High Level Scheveningen Group.
- On 17-04-2024, the HLG Scheveningen discussed the JR, general background document, and area-specific background documents for approval. All Member States approved except Denmark because they had to make a parliamentary reservation.
- On 23-10-2024, the Danish parliamentary reservation was lifted.

¹ The conservation measures for the Dogger Bank were separately submitted to the European Commission on 19 October 2023.

- On 18-12-2024, the JR, general background document and area-specific background documents were sent to the European Commission.

2. Objective and scope of the joint recommendation on conservation measures

2.1. Objectives

The Netherlands strives to comply with its obligations under Union environmental legislation by proposing the conservation measures listed under paragraph 3. These conservation measures have the following objectives for each specific area.

- Maintain the surface and improve the quality of habitat type H1170 (reefs) on the Cleaver Bank;
- Maintain the population of the Common guillemot (*Uria aalge*, A199), Razorbill (*Alca torda*, A200), Northern gannet (*Morus bassanus*, A016), Great skua (*Stercorarius skua*, A175), Little gull (*Hydrocoloeus minutus*, A177), Great black-backed gull (*Larus marinus*, A187) on the Brown Ridge;
- Contribute to achieving a good environmental status by protection of the seabed in the Frisian Front, Central Oyster Grounds, Borkum Reef Grounds and the Southern Dogger Bank.

2.2. Scope

The proposed conservation measures are a result of the national North Sea Agreement (NSA). This agreement limits the scope of the conservation measures to the areas Southern Dogger Bank, Cleaver Bank, Central Oyster Grounds, Frisian Front, Borkum Reef Grounds, and the Brown Ridge.

3. Conservation measures

The following conservation measures are proposed:

1. Establishing management zones in all proposed areas. The coordinates of these zones are attached in Annex 7.
2. It is prohibited to use any of the bottom contacting towed gear listed in Table 1 in the management zones of the Southern Dogger Bank, Cleaver Bank, Central Oyster Grounds, Frisian Front subarea 2, and Borkum Reef Grounds. Fishing activities related to scientific research that is necessary to comply with legal obligations are exempted from the use of the prohibited gear as listed in Table 1, if the research complies with article 25 of Regulation (EU) 2019/1241.

Table 1 Prohibited bottom contacting towed gear.

Gear groups that are prohibited in the management zones	Gear Code Annex XI in Implementing Regulation (EU) 404/2011	International Standard Classification of Fishing Gears (ISSCFG, FAO 2016)
Beam trawl	TBB, TBN, TBS	03.11
Trawls	OTB, OTT, PTB, TB	03.12 , 03.13, 03.15, 03.19
Dredges	DRB, DRH, HMD	04.1, 04.2, 04.3
Seines	SB, SV, SDN, SSC, SPR, SX	02.1, 02.2, 02.9

3. Any fishing activity is prohibited in the management zone of the Frisian Front subarea 1. This effectively results in a 'no-take-zone' or 'no-fisheries-zone' of the management zone. Fishing activities related to scientific research that is necessary to comply with legal obligations are exempted from the use of the prohibited gear if the research complies with article 25 of Regulation (EU) 2019/1241. Within subarea 1, five areas will be designated to two different research projects:
 - Two areas of 50km² (Annex 7, Figure 5 and table 5.1, Areas A and B) and two areas of 4 km² (Annex 7, Figure 5 and table 5.1, Areas C and D) are reserved for oyster recovery project(s). Fishing activities are allowed if they are necessary to execute the project(s) and the coastal State, i.e. the Netherlands, has given permission for the project. This permission will be granted for a limited time period.
 - An area of 100km² is designated for impact assessments of the effects of beam trawling (TBB) on the benthic community, surface and sub-surface impact (Annex 7, Figure 5 and table 5.1, Area E). Fishing activities are allowed if they are necessary to execute the project(s) and the coastal State, i.e. the Netherlands, has given permission for the project. This permission will be granted for a limited time period.
4. In the management zone of the Brown Ridge it is only allowed to use gillnets and entangling nets as listed in Table 2 in the period between 1 April to 30 September of each year. Fishing activities related to scientific research that are necessary to comply with legal obligations are exempted from the use of the prohibited gear as listed in Table 2 if the research complies with Article 25 of Regulation (EU) 2019/1241.

Table 2 Prohibited gillnets and entangling nets.

Gear groups that are prohibited in the closed zones	Gear Code Annex XI in Implementing Regulation (EU) 404/2011	International Standard Classification of Fishing Gears (ISSCFG, FAO 2016)
Gillnets and entangling nets	GNS, GND, GNC, GNF, GTR, GTN, GEN, GN	07.1, 07.2, 07.3, 07.4, 07.5, 07.6, 07.9

3.1. Review of the conservation measures

A monitoring program is in place to assesses the results of the proposed measures (see chapter six of the General Background Document). The conservation measures are assessed six (or three) years after these measures are in force by a Delegated Act. The results of this assessment might lead to alterations of the conservation measures.

3.2. Control and enforcement of proposed conservation measures

The basis for control of fishing in restricted areas is described in Council Regulation (EC) No 1224/2009, Articles 47 and 50. As an addition to this Council Regulation, the Netherlands proposes three supplementary control measures:

1. An alert zone of 4 nautical miles, measured from the outer limits of each management zone, is established. In this alert zone, none of the conservation measures apply except for a higher frequency of data transmissions.
2. The frequency of data transmissions in all management- and alert zones is increased to be every 10 minutes.
3. When entering a management zone or alert zone fishing vessels shall have installed a fully functioning on board device as referred to in Article 9, paragraph 2, of Regulation (EC) No 1224/2009. For vessels with a length over all (LOA) of less than 12 meters, this may also be a portable, satellite or mobile device. Article 9 of Regulation (EC) No 1224/2009 and Articles 18 to 28 of Implementing Regulation (EU) No 404/2011, shall apply mutatis mutandis.

3.3. Request

As initiating Member State, The Netherlands has drafted this JR based on the information set out in the background documents. This JR will function as a request to the European Commission to adopt the proposed conservation measures in the Dutch EEZ by use of a Delegated Act.

Annexes:

- Annex 1: General Background Document
- Annex 2: Southern Dogger Bank Background Document
- Annex 3: Cleaver Bank Background Document
- Annex 4: Frisian Front & Central Oyster Grounds Background Document
- Annex 5: Borkum Reef Ground Background Document
- Annex 6: Brown Ridge Background Document
- Annex 7: Maps & Coordinates