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**NSAC Advice Ref. 14-2223**  
**NSAC Advice on Dutch MPAs**

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## 1 Background

On 28 July 2023, the NSAC received a request for advice from the Dutch Ministry of Agriculture, Nature and Food Quality on a proposal for conservation measures in six MPAs, namely the Brown Ridge (BD), Cleaver Bank (HD), Southern Dogger Bank (MSFD), Frisian Front (MSFD), Central Oyster Grounds (MSFD), and Borkum Reef Grounds (MSFD).

As the initiating Member State, the Netherlands strives to take 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 of Regulation (EU) No 1380/2013 provides the legal basis to adopt conservation measures. Conservation measures on the Frisian Front (MSFD & BD), Cleaver Bank (HD) and Central Oyster Grounds (MSFD) came into effect on the 8<sup>th</sup> of March 2023. Furthermore, a proposal for the Natura 2000 site Dogger Bank is planned for approval by the Scheveningen High-Level Group and submission to the European Commission in 2023.

Additional conservation measures as proposed in the draft proposal of the Joint Recommendation (JR) are deemed necessary to fulfil the obligations under the aforementioned Union environmental legislation. The proposed conservation measures are a result of the Dutch national North Sea Agreement (NSA). This agreement limits the scope of the conservation measures on the Southern Dogger Bank, Cleaver Bank, Central Oyster Grounds, Frisian Front, Borkum Reef Grounds, and the Brown Ridge. The JR proposal has been shared with other Member States having a direct management interest in the fishery and the national stakeholders between 2021 and 2023.

We appreciate the opportunity to provide our view on the proposed Joint Recommendation for conservation measures in six Marine Protected Areas (MPAs) located in Dutch waters. Below you can find our general and country-specific advice.

## 2 NSAC Advice

### 2.1 General Advice

**Robust scientific monitoring** of the measures' effects is imperative. We support the implementation of regular and intensive monitoring activities, as stipulated by the Habitat Directive, after six years. These assessments should determine the extent to which the measures have improved the conservation status and whether additional fisheries management improvements are necessary. It is essential not to abandon these measures after six years, as the aim is to prevent deterioration as required under law.

We recommend **strengthening monitoring efforts** in line with previous recommendations from the Scientific, Technical and Economic Committee for Fisheries (STECF) regarding Dutch fishery measures. The current monitoring plan may need adjustment to detect smaller population distribution changes, considering a precautionary approach. Additionally, we advise including specific monitoring for fish communities and species like the harbour porpoise, grey seal, and harbour seal within designated areas.

We stress the importance of **well-defined control and enforcement** provisions. The proposed measures should include a comprehensive plan outlining how activities will be effectively monitored and enforced. The set of control and enforcement measures does not actually enforce the closure of the respective areas to fishing with the respective prohibited gears. It merely prescribes requirements for vessels when entering, transiting and exiting the closed areas. We urge compliance with STECF recommendations from previous Dutch Joint Recommendations (JRs), where concerns were raised about the lack of enforcement measures.

We support the **use of VMS with a 10-minute frequency and alert zones**. All vessels, including small vessels under 12 meters, entering the area should be equipped with AIS for effective monitoring, in accordance with EU regulations. It is crucial to clarify actions to be taken if vessels transmit data at intervals of more than 10 minutes while inside closed areas.

Given the proximity of Dutch MPAs to neighboring countries and their Natura 2000 areas, **international coordination** is essential. We recommend including provisions for cooperation, information exchange, and alignment of management, monitoring, control, and enforcement efforts with neighboring protected marine areas.

In the draft proposal for Brown Bank, it is proposed to **issue permits for gill-net** and other entangling net fishing in the period 1 April to 31 September as part of an experiment to study bird bycatch. We consider it undesirable to do this in a Natura 2000 area. It is not clear what

the duration of the experiment will be, as there is no end date attached. Moreover, it is unclear what fishing intensity is necessary.

We advise **seeking guidance from STECF** regarding integrating their recommendations into the proposed measures, especially regarding control and enforcement.

Measures should include safeguards for the habitats and food sources of designated sea mammals and bird species. The **impact of pelagic fishing** should be adequately addressed, and criteria outlined in EU Criterion 4 must be met. Additional measures should be considered for the VR-area Friese Front to protect prey fish species and their habitat, supporting the conservation objectives.

We reiterate the need for **independent scientific reviews** of fisheries measures in line with conservation objectives, and we encourage **collaboration with STECF or ICES** to ensure compliance with legal and ecological requirements, especially regarding the need for Appropriate Assessments for fishing activities.

## 2.2 Country-specific Advice

### 2.2.1 Belgium: industry

Our Belgian members examined the Dutch proposal for conservation measures in six MPAs. The Belgian fleet is mainly affected in the Central Oyster Grounds, Frisian Front and Cleaver Bank. In the Southern Dogger Bank, a limited Belgian fishing activity is noticeable. In the areas Borkum Reef Grounds and Brown Ridge there is little to no Belgian fishing activity noticeable.

All three areas are well-known fishing grounds for beam trawl fisheries which target sole and plaice, as well as otter trawl fisheries. These vessels target plaice and nephrops. Especially the Central Oyster Grounds has become an important fishing ground for nephrops since 2017. Within the Frisian Front there is Belgian activity in almost the entire subarea 1, only in the extreme southwest part there is less to no activity.

Regarding the Cleaver Bank and Frisian Front, there has been a decrease in fishing activities for the Belgian fishery in recent years. This is due to better fishing opportunities in other waters such as the North Western Waters, which does not mean that these Dutch areas cannot become more important fishing grounds in the future.

The Rederscentrale denies that the impact of our Belgian fishing gears is of that magnitude that a restriction in the proposed areas should be provided. Banning this fishery in the designated areas will lead to negative socio-economic consequences for Belgian fishing companies.

The efforts of the Belgian fishing fleet to evolve towards more sustainable practices have to be taken into account. In the Belgian fleet the beam trawl gear has been replaced by more sustainable fishing techniques with lighter material and profiles with less resistance such as

the Sumwing and Ecoroll beam. It can be concluded that the negative reputation of the beam trawl fishery can no longer be defended. All these initiatives and adaptations by the Belgian fisheries result in a reduced environmental impact by the Belgian fleet. Conservation measures in these areas will hence not contribute to the objectives of the proposed MPAs.

Reduction in fishing grounds in combination with the rather large sizes of the areas, will likely lead to displacement of fishing effort. This displacement will be difficult to quantify but will indirectly affect all fleets. The concentration of large MPAs and other spatial planning features such as wind farms (especially in Dutch waters) deprive fishers of the main part of their working area. This increase in activity reduces the fishing grounds gradually. We also would like to point out that the displacement of fishing activity will have a cumulative effect on the profitability of the fishing vessels as well as on the environmental impact as the fishing effort in other areas will increase.

### 2.2.2 Denmark: industry

The process of the development of fisheries management measures in Natura 2000 sites in the Dutch EEZ has been extensive and started up back in 2010 with the Fisheries Measures in Protected Areas (FIMPAS)<sup>1</sup> project on the Dogger bank, Cleaver bank and Frisian Front Natura2000 sites. Throughout the years, the NSAC has been involved and has delivered input to draft proposals.

The Danish members, specifically, call for further scientific basis and factuality and, not least, documentation on the effects and the monitoring program of such effects. It is crucial that pressure factors are documented before regulations are implemented.

The proposal has been extended over the years to also contain other areas in Dutch waters, the central Oyster Grounds, Southern Dogger Bank, Borkum Reef Grounds and Brown Ridge. The regulation proposed now closes all these areas to fishing and in no way promotes coexistence. We advise further investigation of the concept of multi-use and the establishment of pilot projects to test their viability.

It seems as if the various member states ensure their MPA implementation by maintaining proposals for closures over several years. Coexistence is not prioritized, and the closures prevent intelligent management of the EU sea areas.

The Danish industry members strongly oppose this Joint Recommendation as several more effective alternative plans exist. The plans are extremely detrimental for the Danish Fishers and alternatives with the same ecological impact, but far lesser economic impact are available.

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<sup>1</sup> <https://www.wur.nl/en/Publication-details.htm?publicationId=publication-way-333936383139>

### 2.2.3 The Netherlands: industry

In the Netherlands, there is the North Sea Agreement since June 2020 and within this body consultations are conducted with the industry, ministries and NGOs about the details of the areas designated in the context of N2000 or MFD.

In the Agreement, the parties agreed to 15% closed areas, of which 13.7% have already been designated with the closure of parts of Dogger Bank, Cleaver bank, Central Oyster Grounds Frisian Front and Borkum Reef Grounds.

### 2.2.4 The Netherlands: OIG

We commend the Dutch administration for providing a clear scientific basis for these proposed conservation measures. The necessity of further fishery measures is well-documented and supported by independent reviews and scientific evidence. We expect that the implementation of these nature-protection measures will contribute to the Netherlands' achievement of the conservation objectives for the specific sites.

We acknowledge that the proposed measures align with Dutch national agreements as outlined in the North Sea Agreement. Furthermore, we appreciate that these measures have received unanimous support from various stakeholders, including fishing representatives and non-governmental organizations (NGOs), including Dutch members of the NSAC (North Sea Foundation, Vissersbond, and Visned/PO Urk). We recommend updating the general background document to reflect this widespread support.

In addition, the proposed conservation measures also contribute to international conservation targets, such as those set out under N2000, MSFD, the EU Biodiversity Strategy, EU Marine Action Plan, the COP15 Kunming-Montreal Global Biodiversity Framework, and the upcoming EU Nature Restoration Law.

The document highlights the impact of bottom-contacting fishing activities on benthic ecosystems. We support the creation of closed areas within the MPAs, as they will serve as essential habitats where negative ecological impacts are minimized, providing protection to sensitive benthic habitats and species. We advise complementing these measures with additional management actions, including Total Allowable Catch (TAC) limits, to offset increased fishing pressure in remaining areas.

Failure to meet the Good Environmental Status (GES) targets poses a risk of deterioration. The Netherlands has consistently fallen short of its European obligations to effectively protect and enforce its share of the North Sea. Timely implementation of these proposed measures is crucial to prevent further setbacks in achieving conservation goals.

To provide clarity for the future, we recommend adding pulse fishing to the list of excluded gears in case the EU ban is lifted, or including scientific evidence to demonstrate non-significant impacts on conservation objectives.

### 3 Conclusion

We reiterate our appreciation for the opportunity to provide this advice on the proposed conservation measures in Dutch MPAs. We are committed to the effective protection and sustainable management of the North Sea, however, we would like to emphasize the importance of real and meaningful stakeholder engagement that is timely, sincere and runs across borders. This is especially important in marine spatial planning and the pertinent designation of MPAs. Any meaningful protection of nature should be done in collaboration with those who depend on it. As always, we remain at your disposal for further discussion.