

Update on Dogger Bank and other Dutch N2000 and MSFD sites

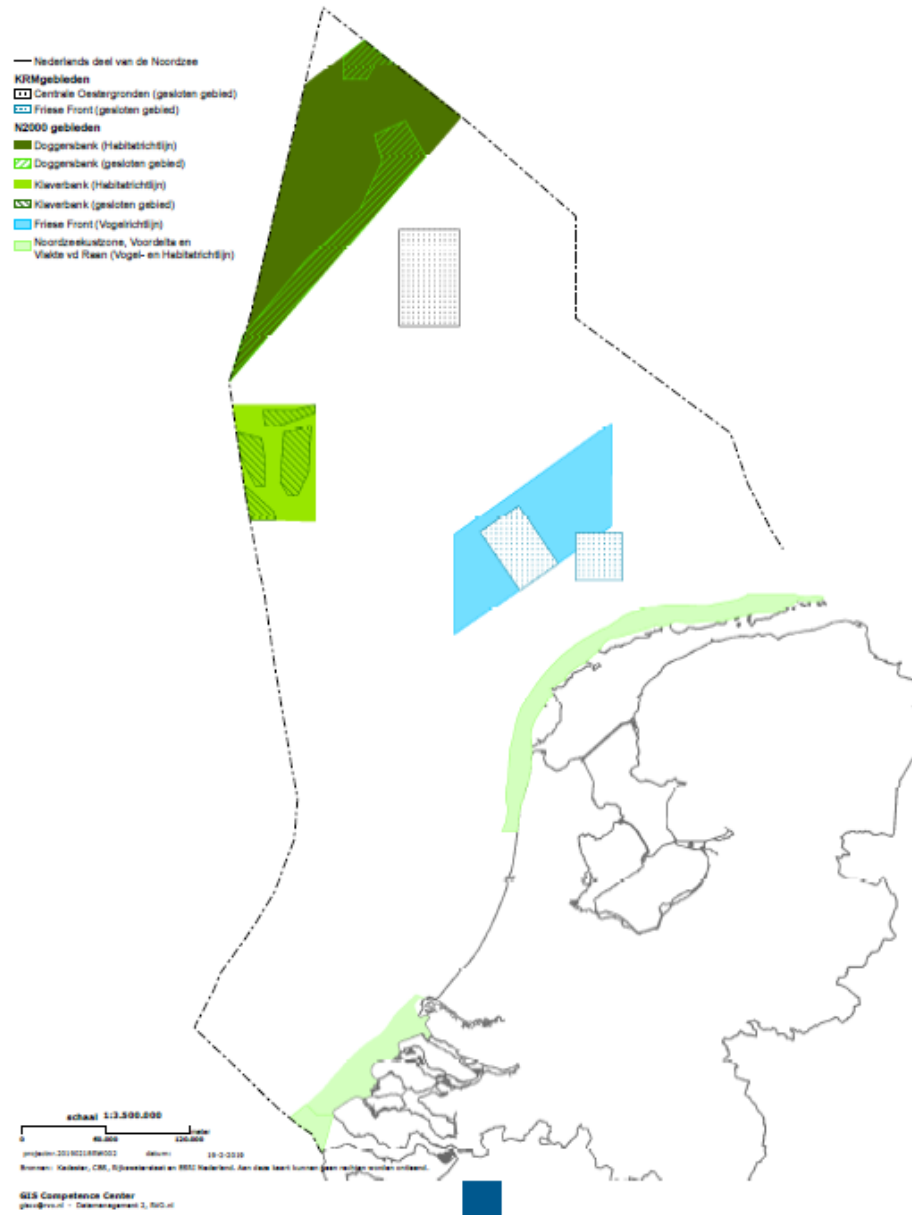
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Haarlemmermeer / Schiphol,
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What We Will Discuss

- State of play of the procedure for the MPA's in the Dutch EEZ
- Brief summary of the fisheries measures in the various N2000 and MSFD sites
- Legal basis for N2000 action and the role of the precautionary principle
- Some reflections on the process of the Dogger Bank: wins and losses

LIGGING N2000, KRM- en GESLOTEN GEBIEDEN IN DE NOORDZEE per 1 februari 2019





State of play of the procedure for the MPA's in the Dutch EEZ

- 14 December 2018: Letter of the Dutch minister to Parliament stating she will proceed with the N2000 and the MSFD sites and submit these to the Scheveningen High Level Group
- 27 Febr 2019: High level Group approves submission with Dutch sites
- March / April 2019: submission to the European Commission of the Joint Recommendations
- Fall 2019: draft delegated act (Regulations)
- End 2019: entry into force



Summary of the fisheries measures in the various N2000 and MSFD sites

- Aim of the proposal: recovery of substantial parts of the sea bed ecosystem from a disrupted state towards a natural condition; to reduce the pressure on the benthic habitat from towed bottom contacting fishing gear with a view to ensuring a key contribution to the achievement of conservation objectives in accordance with the Marine Strategy Framework Directive and the Habitdirective.

Gear groups that are banned in all closed zones	Gear Code Annex XI in EU Regulation 404/2011	International Standard Classification of Fishing Gears (ISSCFG)
Beam trawl	TBB	03.1.1
Bottom Otter Board Trawl	OTB, OTT, PTB, TBN, TBS, TB	03.1.2, 03.3.0, OTP (?), 03.1.3, 03.1.9
Dredges	DRB, HMD	04.1.0, 04.2.0, DRM (?), DRX (?)
Semi-pelagic trawls	Classified as 'Bottom Otter Board Trawls'	TSP (?)
Demersal seines	SDN, SSC, SPR, SX, SV	SPR, SDN, SSC, SPR, SX, SV

- Fly shooting on the DB allowed (in UK and Dutch part)



Legal basis for N2000 action and the role of the precautionary principle

- Obligation to develop sites of community importance (art 4)
- Obligation to designates special areas of conservation (6.1)
- Obligation to take measures to avoid significant disturbance (6.2)
- Obligation to make an appropriate assessment (6.3)
- Obligation to compensate under certain circumstances
- - precautionary principle -



Precautionary principle 1

- MSFD: Member States should then establish and implement programmes of measures which are designed to achieve or maintain **good environmental status** in the waters concerned, while accommodating existing Community and international requirements and the needs of the marine region or subregion concerned.
- Principles
 - Those measures should be devised on the basis of the **precautionary principle** and
 - the principles that preventive action should be taken,
 - that environmental damage should, as a priority, be rectified at source and
 - that the polluter should pay.
- See also art 6.3 Hab Dir.



Precautionary principle 2

- In evoking the PP one should be cautious
 - Can be based on expert judgment
 - Best available knowledge
- It entails an effort to show that precaution is necessary
- Should be replaced asap by sound legal rules based on sufficient evidence and research
- Facts should substitute precaution
- Application of the PP cannot last *ad infinitum*



Some reflections on the process of the Dogger Bank: wins

- What went well?
 - Participation by industry and NGOs in DBSG
 - Participation by science, ICES and EU
 - Sharing of information between parties
 - Intense stakeholder meetings
 - Political appreciation



Some reflections on the process of the Dogger Bank: losses, What went wrong?

- There is not a binding principle as to the question which % of the site should be closed to bottom contacting gear (discussions varied between 20 and 45% closure)
 - Science provided an answer on the basis of expert judgment
- The coalition between NGOs and industry did not build up
- We did not manage to create a partnership between States and stakeholders
- DB States were forced to make their own decision
- Support on the side of the industry for the final result lacked
 - Consequence: political lobby in the Dutch House of Commons against the DBSG proposal
 - A concession was made in respect of allowing fly shooting in the UK and the Dutch part
 - Which led to loss of support on the side of the NGOs