



Dogger Bank update

on a fisheries management proposal for the SACs

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Outline

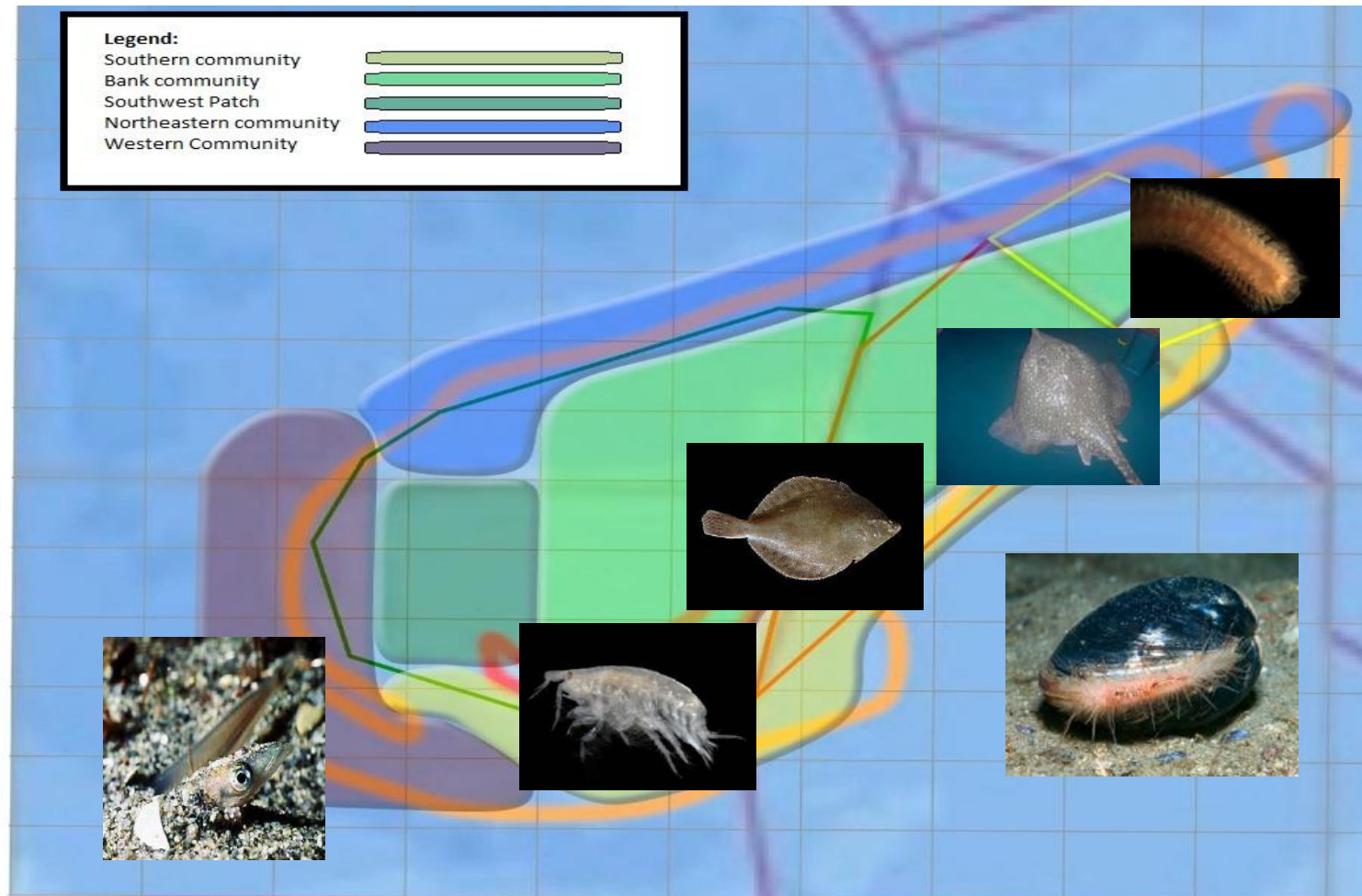
- What is the Dogger Bank?
- What is its Natura 2000 status and the fisheries challenge?
- What progress has been made towards management measures?
- Obstacles and lessons

What is the Dogger Bank?

- Shallow sandbank – a plateau with dynamic flat top bordered by more stable slopes
- Largest sandbank (17,600km²) in the North Sea, straddling the territorial waters of UK, Neths, Germany and Denmark
- Historically a major commercial fishing ground but also a subtle mosaic of habitats



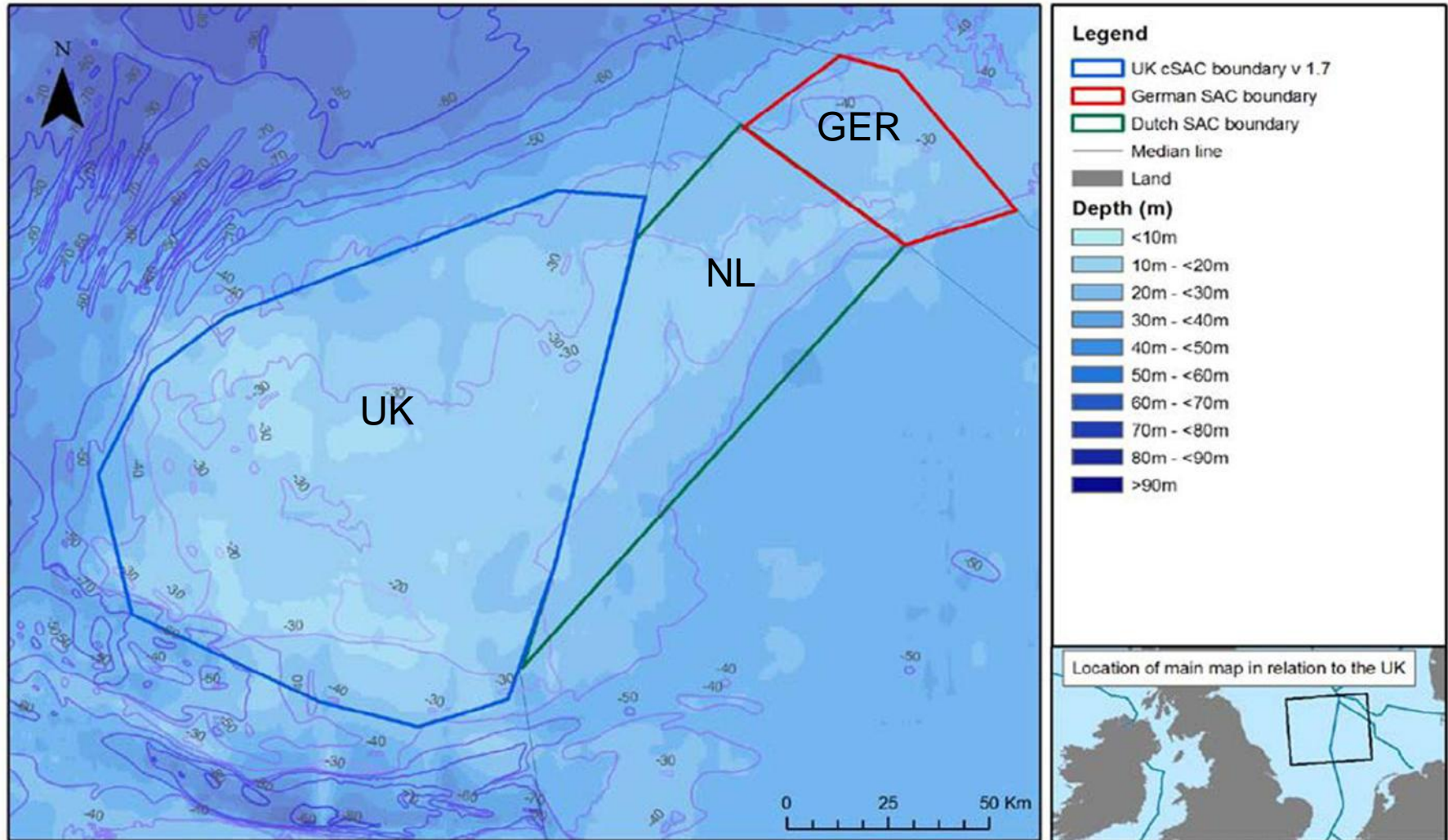
Five benthic communities



Dogger Bank Natura 2000 status and fisheries management challenge

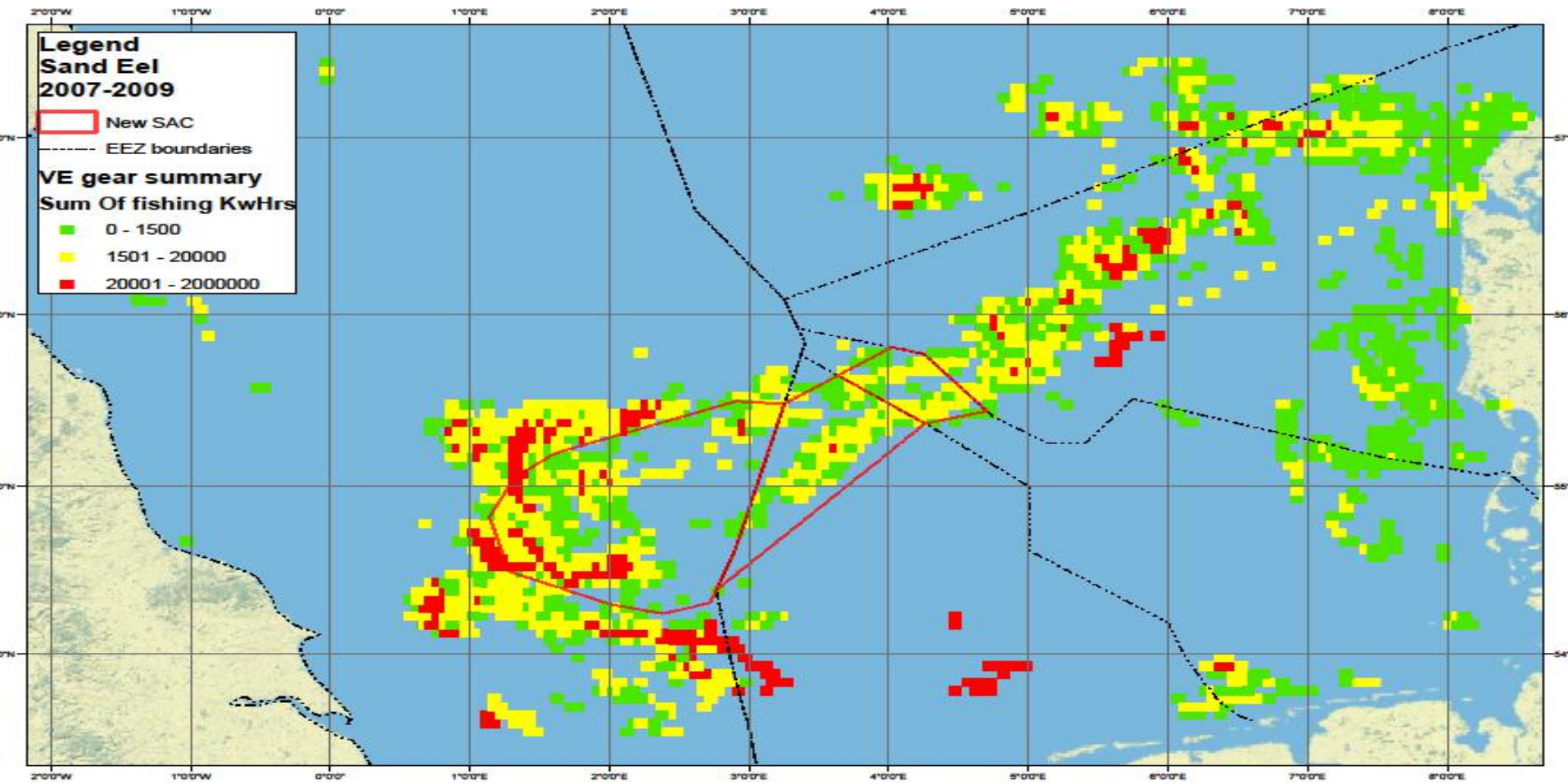


3 Member States have proposed adjoining SACs for EU Habitat H1110 (‘sandbanks slightly covered by seawater all the time’)

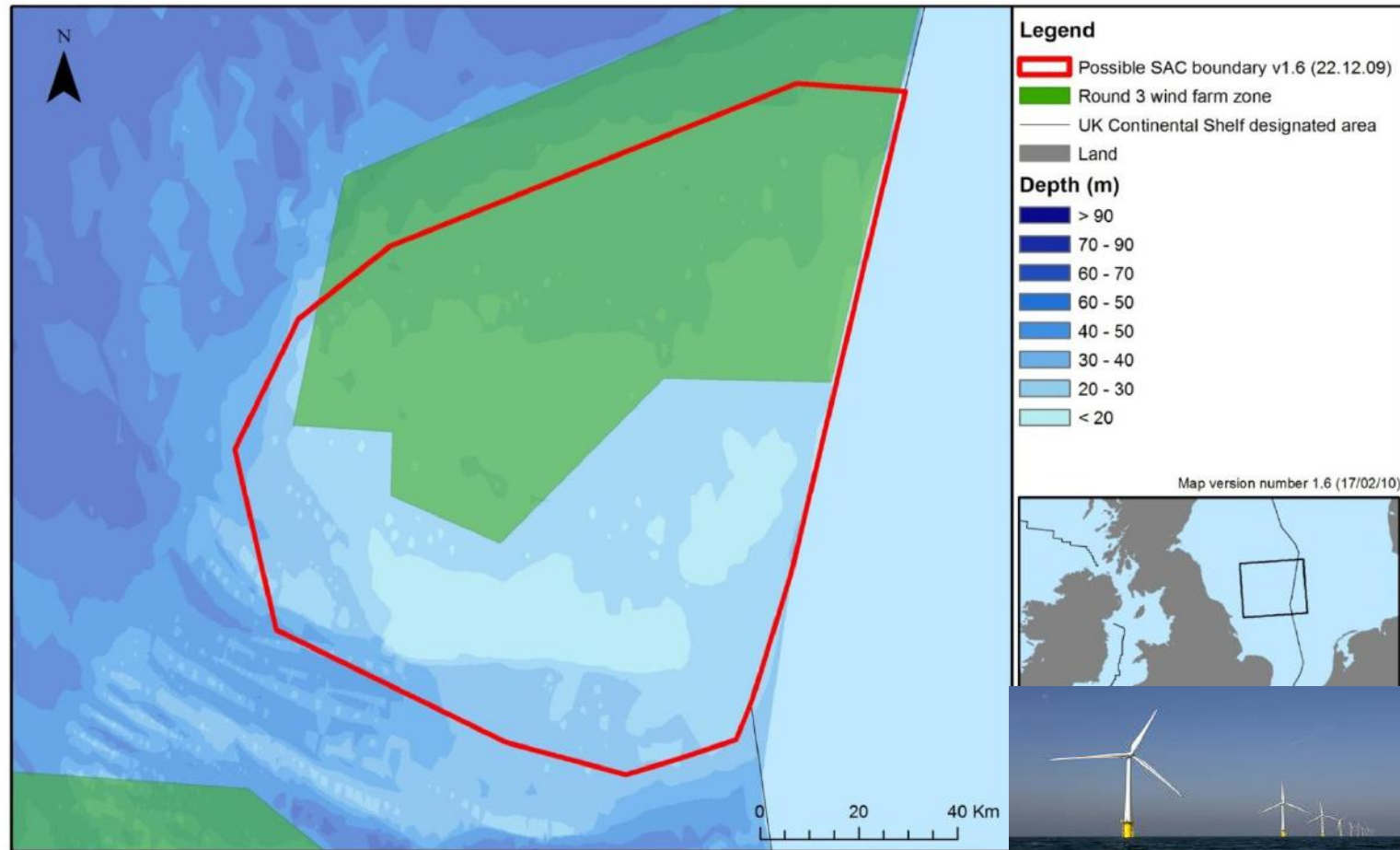


Denmark has no SAC but a major sandeel fishery

- map shows fishing effort 2007-09 (ICES data)



Overlap of 'Forewind' windfarm development zone (9GW) with the UK SAC



Fisheries management approach

- North Sea RAC lobbied for coherent regime across the 3 SACs
- Member States differed in their conservation objectives but agreed conservation status of H1110 is **unfavourable**, apparently due to fishing activity: Dogger Bank shows excess of short-lived opportunistic species and deficit of long-lived species
- All Member States agreed on need for measures to restrict bottom contacting gears, esp trawling, **to restore and conserve** H1110
- However, it's an open question what *proportion* of the area needs to be closed to achieve this - certainly there's no presumption or legal obligation to ban trawling across the whole area

What progress towards a fisheries management plan?



In 2011, Dogger Bank Steering Group (DBSG) of Member States (UK, Neths, Ger, Dk) asked North Sea RAC to prepare a management proposal - key Terms of Ref :-

- Apply a concept with two zones:

Free Zone: all legal gears within the CFP are allowed

Management Zone: fishing limited to gears that do not cause habitat deterioration (i.e. prohibit otter trawls (including for sandeels) & beam trawls)

- Management zone to cover **25 - 55% of total SAC area**, representing all (five) benthic communities
- Perspective to be the entire Dogger Bank, not individual EEZs (but to take account of Germany's management aim of 50% protected area)
- Avoid a patchy pattern of zones for ease of control and enforcement
- Develop a method for weighing socio-economic considerations.

Result of NSRAC process

- Numerous meetings produced NSRAC final position paper (below) to DBSG (Apr 2012) on mapping options and rationale but **no consensus** between NGOs and industry on closures (areas, gears)
- Formulating a proposal to the Commission then defaulted to the Member States (DBSG), with NSRAC stakeholders as observers

The North Sea Regional Advisory Council

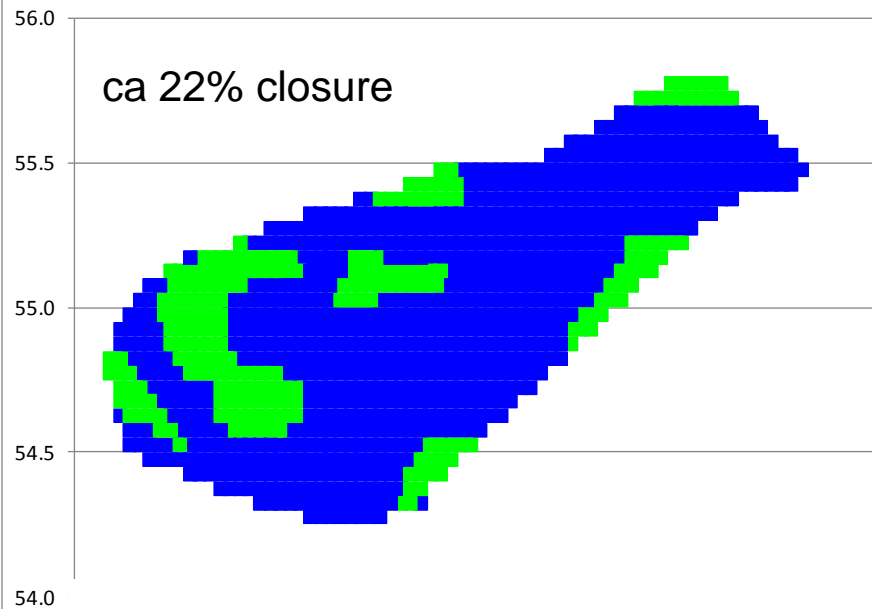


Final Position Paper

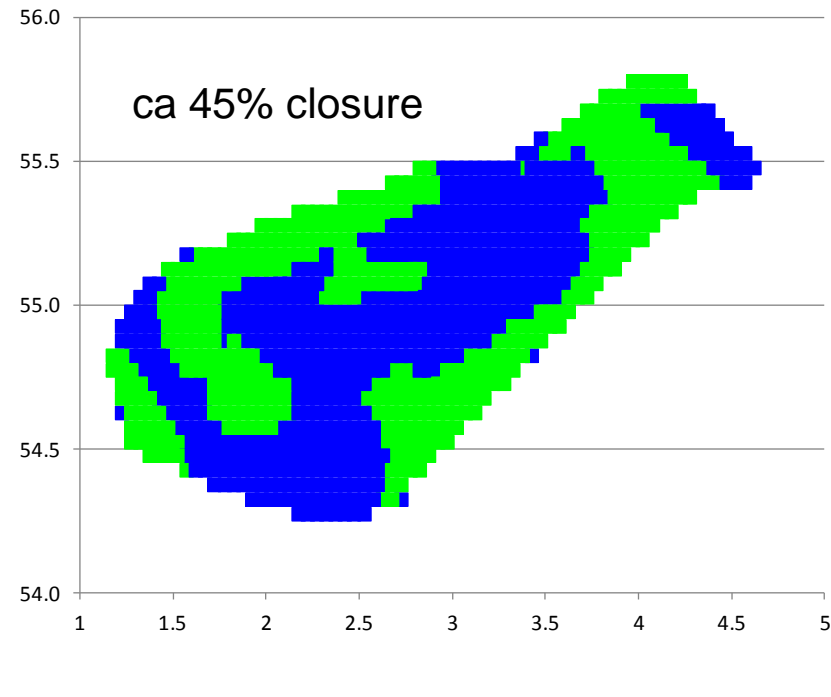
April 2012

Fisheries management in relation to nature conservation for the combined area of 3 national Natura 2000 sites (SACs) on the Dogger Bank

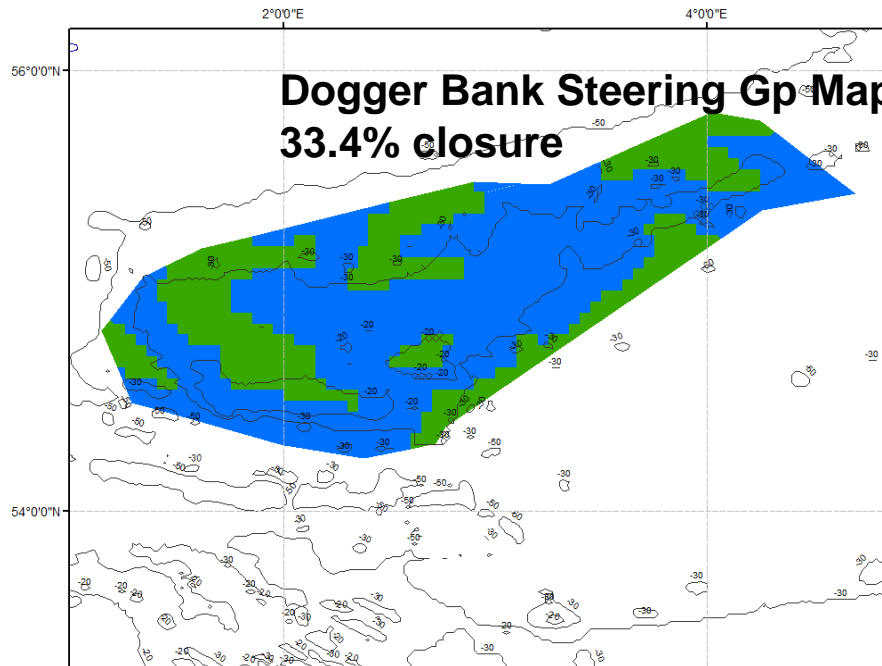
Dogger Bank SAC Industry Map



Dogger Bank SAC NGO Map



Dogger Bank Steering Gp Map
33.4% closure



Notes on the DBSG methodology:

- 1) Took NSRAC maps as basis
- 2) Sought closure of ca 1/3 of area based on literature survey of other closures
- 3) Ave landing value of fish from all squares calculated for 2007-09
- 4) Where squares had equal nature value, losses to the industry minimised by selecting squares with the least landing value

Two further key areas of dissent emerged

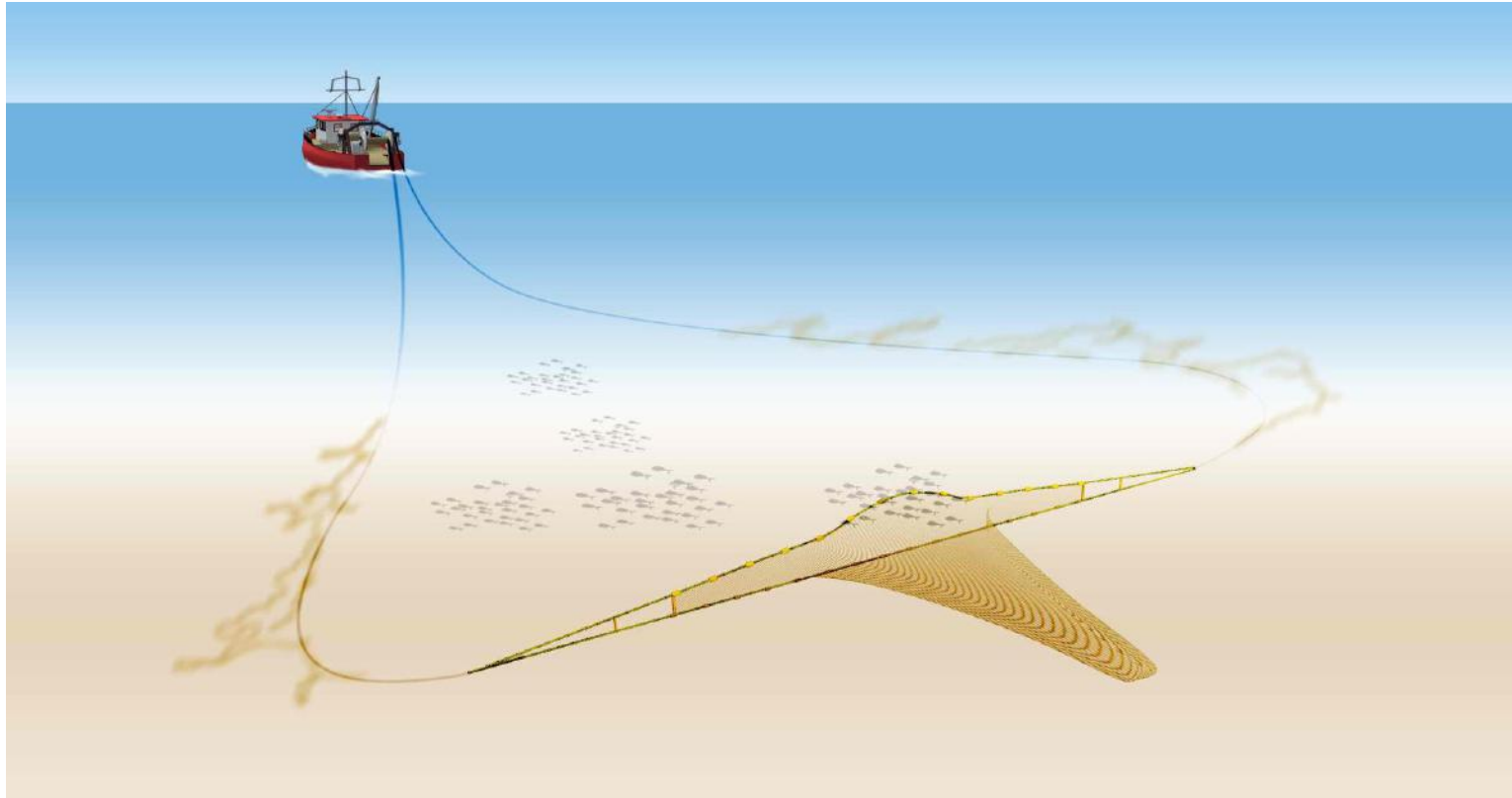
1) Fishing industry wanted to reduce the closed areas within the SACs to allow for likely future exclusions from windfarms

[UK unwilling to address such a trade-off lest it signal prior consenting of windfarm development, so not a DBSG issue]



2nd key area of dissent was major for DBSG

Disagreement over whether **seine nets** should also be prohibited from the Management Zone (Germany and Netherlands support a ban - as do NGOs - whereas UK and industry don't).



What happened next?



DBSG was on verge of submitting its proposal (UK, Germany & Denmark had signed it off) in July 2013, under the 'old' Common Fisheries Policy, when....

The Dutch Parliament tossed a policy grenade into the DBSG tent

- The Dutch Parliament asked to test the proposed measures against Dutch national legal criteria for Natura 2000, including “*seriously consider the alternative proposal of the fisheries sector.....*”.
- This put pressure on the Dutch Minister to seek an accommodation with other Member States.

Concerns about the Dutch intervention:

- Major lack of transparency
- Introduction of bilateral negotiations (reflecting just one stakeholder interest within one Member State) inside a cooperative multi-national agreement

The other game-changer, given the delay till 2014, is the new Common Fisheries Policy

L 354/22

EN

Official Journal of the European Union

28.12.2013

REGULATION (EU) No 1380/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2013

on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the ordinary legislative procedure⁽³⁾,

Whereas:

- (1) Council Regulation (EC) No 2371/2002⁽⁴⁾ established a Community system for the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy (CFP).
- (2) The scope of the CFP includes the conservation of marine biological resources and the management of fisheries targeting them. In addition, it includes, in relation to market measures and financial measures in support of its objectives, fresh water biological resources and aquaculture activities, as well as the processing and marketing of fishery and aquaculture products, where such activities take place on the territory of Member States or in Union waters, including by fishing vessels flying the flag of, and registered in, third countries, by Union fishing vessels, or by nationals of Member States, without prejudice to the

primary responsibility of the flag State, bearing in mind the provisions of Article 117 of the United Nations Convention on the Law of the Sea of 10 December 1982⁽⁵⁾ (UNCLOS).

- (3) Recreational fisheries can have a significant impact on fish resources and Member States should, therefore, ensure that they are conducted in a manner that is compatible with the objectives of the CFP.
- (4) The CFP should ensure that fishing and aquaculture activities contribute to long-term environmental, economic, and social sustainability. It should include rules that aim to ensure the traceability, security and quality of products marketed in the Union. Furthermore, the CFP should contribute to increased productivity, to a fair standard of living for the fisheries sector including small-scale fisheries, and to stable markets, and it should ensure the availability of food supplies and that they reach consumers at reasonable prices. The CFP should contribute to the Europe 2020 Strategy for smart, sustainable and inclusive growth, and should help to achieve the objectives set out therein.
- (5) The Union is a contracting party to UNCLOS⁽⁶⁾ and, pursuant to Council Decision 98/414/EC⁽⁷⁾, to the United Nations Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks of 4 December 1995⁽⁸⁾ (UN Fish Stocks Agreement) and, pursuant to Council Decision 96/428/EC⁽⁹⁾, to the Agreement to

⁽¹⁾ The United Nations Convention on the Law of the Sea and of the Agreement on the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 3).

⁽²⁾ Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 3).

⁽³⁾ Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

⁽⁴⁾ Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 16).

⁽⁵⁾ Council Decision 96/428/EC of 25 June 1996 on acceptance by the Community of the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas (OJ L 177, 16.7.1996, p. 24).

⁽⁶⁾ OJ C 181, 21.6.2012, p. 183.

⁽⁷⁾ OJ C 225, 27.7.2012, p. 20.

⁽⁸⁾ Position of the European Parliament of 6 February 2013 (not yet published in the Official Journal) and position of the Council at first reading of 17 October 2013 (not yet published in the Official Journal). Position of the European Parliament of 9 December 2013 (not yet published in the Official Journal).

⁽⁹⁾ Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy (OJ L 358, 31.12.2002, p. 59).

Implications of the new CFP, especially Articles 11 and 18

- The **pro** of the DBSG joint recommendation being delayed till 2014 is that the Dogger Bank measures no longer need to be agreed by co-decision (EU Council/European Parliament) – which could take up to 2 years – but rather would be adopted within 6 mths by the European Commission under a ‘delegated act’ (assuming the Council and Parliament don’t oppose this).
- The **con** is that it’s no longer just the Member States that propose measures to the Commission but also Member States *‘having a direct management interest affected by those measures’* that need to agree the proposal, which appears to mean all MSs with an entitlement to fish on the Dogger Bank (includes France, Belgium, Sweden). The DBSG must therefore consult with these other MSs (in the new CFP-driven regionalised body of North Sea States (‘Scheveningen Group’)?
- It appears from the new CFP that if these other non-DBSG Member States disagree with the proposal, then the Commission *‘may submit a proposal in accordance with the Treaty’*, i.e. instead of adoption by a (fast-track) delegated act, the proposal reverts to co-decision by Council and Parliament.

Further implications of Article 11

- Art 11(3): *‘The initiating Member State and other MSs having a direct management interest may submit **a joint recommendation**, as referred to in Art 18(1), within six months from the provision of sufficient information’.*
- A ‘joint recommendation’ must not only be agreed by all the Member States having a direct management interest in the Dogger Bank but can only be accepted in its entirety – i.e. the Commission can’t pick and choose which bits of a joint recommendation to adopt (by definition it’s all or nothing).
- So as it stands, the DBSG doesn’t have a joint recommendation because it has to agree, with all the relevant Member States, on the **seines** issue first – it can’t just lob this hot potato to the Commission to sort out.

Obstacles and lessons learned on getting from here ... to there





- A single Member State has held an international process to ransom, raising serious questions about process and future stakeholder participation.
- The new CFP offers some simplification but also poses new challenges.
- Seeking a consensus 'joint recommendation' could push Member States towards the lowest common denominator, risking that thorny management issues (like seine nets here) drop off the agenda.
- The regional body of North Sea Member States will be highly influential under the new CFP. A sound model for cooperation, with meaningful engagement of the Regional Advisory Councils (RACs), is vital.
- We cannot anticipate a management regime for the Dogger Bank any time soon. That said, this Natura 2000 'jigsaw' poses a uniquely complex challenge, and other EU marine sites should prove simpler.



**Thanks to North Sea Foundation, WWF-Netherlands, North Sea RAC Focus Group,
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