



OSPAR
COMMISSION

Review of national reporting on
the implementation of OSPAR
Recommendation 2010/5 on the
Assessment of Environmental Impacts
on Threatened and/or Declining
Species and Habitats

Review of national reporting on the implementation of OSPAR Recommendation 2010/5 on the Assessment of Environmental Impacts on Threatened and/or Declining Species and Habitats

OSPAR Convention

The Convention for the Protection of the Marine Environment of the North-East Atlantic (the “OSPAR Convention”) was opened for signature at the Ministerial Meeting of the former Oslo and Paris Commissions in Paris on 22 September 1992. The Convention entered into force on 25 March 1998. The Contracting Parties are Belgium, Denmark, the European Union, Finland, France, Germany, Iceland, Ireland, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom.

Convention OSPAR

La Convention pour la protection du milieu marin de l'Atlantique du Nord-Est, dite Convention OSPAR, a été ouverte à la signature à la réunion ministérielle des anciennes Commissions d'Oslo et de Paris, à Paris le 22 septembre 1992. La Convention est entrée en vigueur le 25 mars 1998. Les Parties contractantes sont l'Allemagne, la Belgique, le Danemark, l'Espagne, la Finlande, la France, l'Irlande, l'Islande, le Luxembourg, la Norvège, les Pays-Bas, le Portugal, le Royaume-Uni de Grande Bretagne et d'Irlande du Nord, la Suède, la Suisse et l'Union européenne.

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Executive Summary

This document provides an overview and assessment of the implementation of OSPAR Recommendation 2010/5 on assessments of environmental impact in relation to threatened and/or declining species and habitats. It recommends that when assessments of environmental impacts of human activities that may affect the marine environment of the OSPAR maritime area are prepared, Contracting Parties should ensure they take account of the relevant species and habitats on the OSPAR List (OSPAR Agreement 2008-6).

This overview assessment is based on national reports submitted by Contracting Parties in the 2020/2021 meeting cycle, and was examined by the Environmental Impacts of Human Activities Committee in 2021. Reports were provided by Belgium, Denmark, France, Germany, Luxembourg, the Netherlands, Norway, Spain, Sweden and the United Kingdom.

The assessment finds that implementation reporting by Contracting Parties on Recommendation 2010/5 has significantly improved since the first reporting round in 2011. Environmental Impact Assessment and Strategic Environmental Assessment legislation provides an important mechanism to promote the protection of OSPAR listed threatened and/or declining species and habitats, but the non-binding nature of the OSPAR List and this Recommendation, can mean that effectiveness of implementation is dependent on overlaps with national practice. Further conclusions are presented at the end of the assessment.

To align with future implementation reporting on the OSPAR List, the next implementation reporting round on Recommendation 2010/5 should be conducted by 31 December 2025.

Récapitulatif

Le présent document donne un aperçu et une évaluation de la mise en œuvre de la Recommandation OSPAR 2010/5¹ qui recommande que lors de la préparation des évaluations des impacts environnementaux des activités humaines susceptibles d'affecter le milieu marin de la zone maritime OSPAR, les Parties contractantes tiendront compte des espèces et habitats pertinents de la Liste OSPAR des espèces et habitats menacés et/ou en déclin (Accord OSPAR 2008-6).

Cette synthèse de la mise en œuvre est basée sur les rapports nationaux des Parties contractantes soumis pendant le cycle de réunions 2020/21 ; elle a été examinée par le Comité impact environnemental des activités humaines en 2021. La Belgique, le Danemark, la France, l'Allemagne, le Luxembourg, les Pays-Bas, la Norvège, l'Espagne, la Suède et le Royaume-Uni ont soumis des rapports.

La législation relative aux évaluations de l'impact environnemental et aux évaluations environnementales stratégiques constitue un mécanisme important pour promouvoir la protection des espèces et habitats menacés et/ou en déclin de la Liste OSPAR, mais la nature non contraignante de la Liste OSPAR et de la Recommandation 2010/5 peut signifier que l'efficacité de la mise en œuvre dépend des chevauchements avec les pratiques nationales. D'autres conclusions sont présentées à la fin de l'évaluation.

Afin de s'aligner sur les futurs rapports de mise en œuvre de la Liste OSPAR, le prochain cycle de rapports de mise en œuvre de la Recommandation 2010/5 devra être mené avant le 31 décembre 2025.

¹ Recommandation OSPAR 2010/5 sur les évaluations de l'impact environnemental en ce qui concerne les espèces et habitats menacés et/ou en déclin.

1. Introduction

1.1 OSPAR Recommendation 2010/5

The OSPAR List of Threatened and/or Declining Species and Habitats (OSPAR Agreement 2008-6) is based upon nominations by Contracting Parties and observers to the Commission of species and habitats that they consider to be priorities for protection. The purpose of the list is to guide the OSPAR Commission in setting priorities for its further work on the conservation and protection of marine biodiversity. Feature specific Recommendations have been adopted for almost all of the features on the list, setting out collective and/or national actions to further the feature specific protection and conservation and to reduce the main threats from human activities and pressures.

OSPAR Recommendation 2010/5 (Annex 1) recommends that when assessments of environmental impacts of human activities that may affect the marine environment of the OSPAR maritime area are prepared, Contracting Parties should ensure they take account of the relevant species and habitats on the OSPAR List.

One of the operational objectives of the OSPAR Environment Strategy for the North-East Atlantic 2030 is that by 2025 OSPAR will have implemented all agreed measures to enable the recovery of OSPAR Listed threatened and/or declining species and habitats and will take additional measures as needed. For the purposes of Recommendation 2010/5 this would imply that all Contracting Parties should have fully implemented the actions outlined by this time.

1.2 EU legislation

The EU Directive on Environmental Impact Assessment, Directive 2011/92/EU (as amended by Directive 2014/52/EU), consolidates and codifies EU legislation on the assessment of the effects of certain public and private projects on the environment; the EU Directive on Strategic Environmental Assessment, Directive 2001/42/EC, sets out requirements for the assessment of the effects of certain plans and programmes on the environment. Plans and programmes in the sense of the SEA Directive must be prepared or adopted by an authority (at national, regional or local level) and be required by legislative, regulatory or administrative provisions.

1.3 Implementation reporting

1.3.1 General reporting requirements

Under Article 22 of the OSPAR Convention, Contracting Parties shall report to the OSPAR Commission at regular intervals on the national measures (legal, regulatory, or other) taken by them to implement the provisions of the Decisions and Recommendations adopted under the OSPAR Convention and on the effectiveness of these national measures. This implementation reporting forms the basis for OSPAR to assess the compliance by Contracting Parties with the Convention and ultimately to evaluate the effectiveness of programmes and measures under the Convention.

Detailed provisions on implementation reporting and related assessments by OSPAR are laid down in

OSPAR's Standard Implementation Reporting and Assessment Procedure (reference number 2003-23, update 2005). Unless stated otherwise in the OSPAR instrument concerned, the practice has been in general that an implementation report should be submitted to the appropriate OSPAR subsidiary body in the intersessional period four years after the adoption of a measure and every four years thereafter until fully implemented. Implementation reporting does not apply to Contracting Parties with reservations (or non-acceptance) on an OSPAR measure unless and until the reservation (or non-acceptance) is lifted.

1.3.2 Reporting requirements under OSPAR Recommendation 2010-05

This overview assessment of the implementation of OSPAR Recommendation 2010/5 has been prepared by the Secretariat based on national reports submitted by Contracting Parties in the 2020/2021 meeting cycle, and was examined by the Environmental Impacts of Human Activities Committee in 2021.

This is the third round of implementation reporting and assessment on Recommendation 2010/5. The first implementation reports were due to be submitted by Contracting Parties by 31 December 2011, however no reports were received by the Secretariat. EIHA 2012 agreed that the next delivery of implementation reports should be submitted by 1 January 2013, with reporting taking place every three years thereafter. Contracting Parties last reported on this Recommendation during the 2016/17 meeting cycle. The Overview Assessment of national reporting was published as OSPAR publication 711 in 2018. Reporting by Contracting Parties was only partial and furthermore varied significantly in content and evidence of effectiveness due in part to the non-binding nature of OSPAR recommendations.

EIHA 2017 agreed that reporting should be changed to match the 6 year reporting cycle of the individual recommendations for the OSPAR list of threatened and/or declining species and habitats. This present report is intended to link to the 2019 species and habitats reporting round. To align with future implementation reporting, the next implementation reporting round on Recommendation 2010/5 should be conducted by 31 December 2025.

2. Overview of compliance

All Contracting Parties were invited to submit implementation reports on Recommendation 2010/5 by 31 December 2020. The following Contracting Parties have submitted a report: Belgium, Denmark, France, Germany, Luxembourg, the Netherlands, Norway, Spain, Sweden and the United Kingdom. No reports were received from the European Union, Finland, Iceland, Ireland, Portugal, and Switzerland. The Recommendation does not apply to Finland, Luxembourg and Switzerland, as they do not have maritime waters in the OSPAR Maritime Area. Luxembourg did in fact provide a report but commented that it did not have any marine waters in the OSPAR maritime area and estimated that no human activities take place in Luxembourg that may affect the marine environment of the OSPAR maritime area.

Reporting levels in 2020 were a significant improvement on 2016/17. Table 1 provides an overview of compliance. Of those Contracting Parties who reported, the most common means of implementation were administrative action and legislative measures. Annex 2 provides a summary of the Contracting Party responses on implementing actions and barriers.

Table 1. Overview of implementation on OSPAR Recommendation 2010/5 on the consideration of the 'OSPAR List of threatened and/or declining species and habitats' in environmental impact assessments (EIAs).

Contracting Party	Reservation in place	Measure applicable	Implementation report submitted in 2020/2021	Means of implementation		
				By legislation	Administrative action	Negotiated agreement
Belgium	No	Yes	Yes	x		
Denmark	No	Yes	Yes	x	x	
EU	No	Yes	No			
Finland	No	No	N/A			
France	No	Yes	Yes	x	x	x
Germany	No	Yes	Yes	x	x	x
Iceland	No	Yes	No			
Ireland	No	Yes	No			
Luxembourg	No	No	Yes			
Netherlands	No	Yes	Yes	x		
Norway	No	Yes	Yes	x	x	

Portugal	No	Yes	No			
Spain	No	Yes	Yes		x	
Sweden	No	Yes	Yes		x	x
Switzerland	No	No	N/A			
United Kingdom	No	Yes	Yes	x	x	x

3. Actions taken to give effect to the Recommendation

In their national implementation reports, Contracting Parties commonly refer to national legislation which implements the EU EIA and SEA Directives as the means by which the OSPAR Recommendation 2010/5 is given effect.

In some cases the link to the OSPAR List is explicit in this implementation, for example in Sweden where there is a requirement to describe any impacts to the Swedish red list, HELCOM, and OSPAR species list and therefore the Recommendation could be seen as fully implemented.

In other cases, the requirement to take the OSPAR List into account is dependent on the species and habitats being specified in the national legislation. For example, the German Federal Nature Conservation Act 2017 gives special protection to harbour porpoises and to certain marine habitats included in the OSPAR List, but not all of the OSPAR Listed features. When assessments of environmental impacts of human activities that may affect the marine environment of the German North Sea are prepared, account has to be taken of these specified species and habitats.

In the UK, the OSPAR List is considered as part of assessments of environmental impacts of human activities that may affect the marine environment, where species and habitats are also afforded protection through national legislation. Norway implements the EU EIA and SEA Directives in national Regulations on impact assessments (2017). According to national guidelines for EIA, threatened species and habitats shall be considered. The OSPAR listed species and habitats will therefore be considered in EIAs as long as there is overlap with these national systems.

In Belgium the legislation is sufficiently flexible to leave a margin to assess whether the impact on species and habitats mentioned in Recommendation 2010/5 should be part of the EIA.

Some Contracting Parties also point to other relevant legislation that complements EIA/SEA obligations. For example, the UK refers to the new Fisheries Act which contains an obligation to minimise and where possible eliminate bycatch of sensitive marine species, which encompasses the relevant species listed in the OSPAR list and covers the significant human impact of fisheries.

4. Barriers to implementation

As reported in 2018 the main barrier to implementation appears to be the non-binding nature of the OSPAR list and Recommendation 2010/5 itself. Generally speaking, OSPAR threatened and/or declining species and habitats are taken into account in EIAs/SEAs where they also have national listings and/or protection. The response from Spain highlights that one of the main difficulties is that there is no obligation to include species and habitats from the OSPAR List in national legislation, and consequently measures adopted to protect them are in most of the cases recommendations or voluntary actions. Nonetheless, The Deputy Directorate for the Protection of the Sea in Spain is consulted in the EIA and SEA processes, stating in their reports the presence of the species in the OSPAR List, where appropriate.

It is not clear from the national reporting to what extent the OSPAR List influences or drives the EIA process at national level. However, the UK gives one example where in Northern Ireland, the Department of Agriculture, Environment & Rural Affairs (DAERA) have undertaken a review of biodiversity lists (as required under the Wildlife and Natural Environment Act 2011) to include recent additions to the OSPAR List. Once finalised this will form part of the advice for the consideration of EIAs.

An additional practical barrier was identified by Norway, which is that the lack of knowledge about distribution, abundance and status of listed species and habitats can be a difficulty in making assessments of environmental impacts.

5. Conclusions on the state of implementation of Recommendation 2010/5

While reporting levels have improved since 2016/17, there are still some important reporting gaps which may limit or affect the conclusions that can be drawn in this overview assessment report. The information provided by those Parties who have reported is also quite variable in scope and level of detail. Nonetheless a number of conclusions can be drawn which may help Contracting Parties to strengthen the application of Recommendation 2010/5 in the future.

- a. Implementation reporting by Contracting Parties has significantly improved since the first reporting round in 2011; the most commonly cited means of implementation is through administrative action, although as with reporting on other Recommendations there may be differing interpretations of the distinction between legislation/administrative action and negotiated agreement;
- b. EIA and SEA legislation provides an important mechanism to promote the protection of OSPAR Listed threatened and/or declining species and habitats, particularly so where an explicit link is made in national legislation and guidelines either to the OSPAR List as a whole or to specific listed species and habitats;
- c. The non-binding nature of the OSPAR List (Agreement 2008-06) and Recommendation 2010/5, can mean that effectiveness of implementation is dependent on overlaps with national practice;
- d. A more thorough investigation of the match between the OSPAR List and national requirements for EIA/SEA assessment would help to quantify any implementation gap; if there is a significant gap, Contracting Parties may wish to consider options to strengthen Recommendation 2010/5, such as to give it more binding force or more precise actions;
- e. Reporting of the application of Recommendation 2010/5 focuses on the extent to which species and habitats in the OSPAR List are expressly included within the scope of EIAs/SEAs; it is not possible to determine whether those assessments have resulted in effective mitigation measures or otherwise resulted in the reduction of impacts; this could be a useful area for further good practice sharing;
- f. to contribute to an evaluation of progress against the operational objective to implement all measures by 2025 to enable recovery of OSPAR Listed features, Contracting Parties may wish to include a field in the next implementation report on the completeness of implementation to indicate whether actions are considered to be fully implemented and completed or not.

Annex 1

OSPAR Recommendation 2010/5 on assessments of environmental impact in relation to threatened and/or declining species and habitats

Preamble

RECALLING Article 2(1) of the Convention for the Protection of the Marine Environment of the North-East Atlantic ('the OSPAR Convention'),

RECALLING Annex V to the OSPAR Convention on the protection and conservation of the ecosystems and biological diversity of the maritime area, and in particular its Article 3(1)(b)(ii), which makes it a duty of the OSPAR Commission to develop means, consistent with international law, for instituting protective, conservation, restorative or precautionary measures related to specific areas or sites or related to specific species or habitats,

RECALLING Article 4 of Annex V, which provides that no programme or measure concerning a question relating to the management of fisheries shall be adopted under that Annex,

RECALLING the adoption by the OSPAR Commission of the OSPAR List of threatened and/or declining species and habitats (OSPAR Agreement 2008-6) which was adopted by the OSPAR Commission to guide the setting of priorities for its activities in implementing Annex V to the Convention,

RECALLING the OSPAR Case Reports for the OSPAR List of Threatened and/or Declining Species and Habitats (OSPAR publication 2008/358) providing the evidence for the development of the OSPAR List,

RECALLING the series of OSPAR background documents published on the OSPAR website on the species and habitats listed by OSPAR that examine their current status and the need for actions to ensure the protection of each species or habitat,

RECALLING that the OSPAR Quality Status Report 2010 concluded that the UN target of reducing the loss of biodiversity by 2010 is far from being achieved in the North-East Atlantic and that there is an urgent need for effective protection and conservation of the threatened and/or declining species and habitats on the OSPAR List,

RECALLING EU legislation, namely the European Directives 85/337/EEC and 97/11/EC on the assessment of the effects of certain public and private projects on the environment, and Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, and NOTING FURTHER corresponding legislation of other Contracting Parties,

RECOGNISING the conclusion of the Quality Status Report 2010 that pressures from human activities on the marine environment are increasing and that there is a need better understand and address the environmental impacts of human activities, individually or cumulatively, on vulnerable marine habitats and species,

The Contracting Parties to the Convention for the Protection of the Marine Environment of the North-East Atlantic RECOMMEND:

1. Purpose and Scope

1.1. The purpose of this Recommendation is to support the protection and conservation of species and habitats on the OSPAR List of threatened and/or declining species and habitats, through assessments of environmental impacts of human activities.

2. Programmes and Measures

2.1 When assessments of environmental impacts of human activities that may affect the marine environment of the OSPAR maritime area are prepared, Contracting Parties should ensure they take account of the relevant species and habitats on the OSPAR List of threatened and/or declining species and habitats (OSPAR Agreement 2008-6).

2.2 The assessment referred to in paragraph 2.1 above should consider threats identified in the Background Documents on species and habitats on the OSPAR List published on the OSPAR website and other relevant documentation.

3. Entry into Force

3.1 This Recommendation has effect from 24 September 2010.

4. Implementation reports

4.1 Contracting Parties should report by 31 December 2011 to the OSPAR Commission on their implementation of this Recommendation and subsequently thereafter as decided by the OSPAR Commission.

4.2 When reporting on implementation, the format at Appendix 1 should be used as far as possible.

Appendix 1

Format for implementation reports concerning OSPAR Recommendation 2010/5 on assessments of environmental impact in relation to threatened and/or declining species and habitats

(Note: In accordance with Section 4 of the Recommendation, this format should be used as far as possible in implementation reports)

I. Implementation Report on Compliance

Country:

Reservation applies:

Is measure applicable in your country ?

If not applicable, then state why not

.....

.....

.....

.....

Means of Implementation:

by legislation	by administrative action	by negotiated agreement
yes/no*	yes/no*	yes/no*

Please provide information on:

- a. specific measures taken to give effect to this measure;
- b. any special difficulties encountered, such as practical or legal problems, in the implementation of this measure;
- c. any reasons for not having fully implemented this measure should be spelt out clearly and plans for full implementation should be reported.

.....

.....

* Delete whichever is not appropriate.

Annex 2

Summary of national reporting comments on implementing actions and barriers

Contracting Party	Specific actions taken to give effect to this measure	Any special difficulties encountered, such as practical or legal problems, in the implementation of this measure:	Any reasons for not having fully implemented this measure
Belgium	The Belgian federal marine environmental permit procedure prescribes the evaluation of the significant effects of an activity on e.g. fauna, flora and biodiversity (article 10 Royal Decree on the Environmental Impact Assessment). This article leaves a margin to assess whether the impact on species and habitats mentioned in recommendation 2010/5 should be part of the EIA. Since the Recommendation applies to the Belgian maritime area, its content is taken into account.		No
Denmark	The measures are in practice implemented through the national implementation of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment. The assessments needed to fore fill the requirements of the legislation will in practice include the same assessments as described in the OSPAR recommendation 2010/5.	No special difficulties encountered	Not relevant
France	In 2017, 41 683 km ² of marine surface area are covered by the Natura 2000 network in France. This network is the first marine area metropolitan network to be protected with 212 marine sites. In 2018, it was completed by the appointment of 12 new offshore marine sites. this was a major step forward for the protection of offshore areas and in particular for the protection of several species of seabirds, marine mammals and deep reefs. This process of extending the network is still ongoing as part of the regular assessment of its coherence by the European Commission. As of 31 December 2018, the French Natura 2000 network represents 224 sites with a marine part, 161 of which are predominantly marine. Out of these 224 sites, there are 142 sites designated under the Habitats Directive and 82 sites designated under the Birds Directive in territorial waters and offshore.		

	<p>To date, the Natura 2000 network therefore covers almost 34% of the marine surface area of the Metropolitan Exclusive Economic Zone and more than half of the surface area of the Metropolitan Marine Natural Parks (MNPs) are also classified as Natura 2000 zones.</p> <p>Data from the 2019 report show that under both Directives many marine species and habitats of Community interest are in an unknown conservation status. In order to strengthen the adequacy of its Natura 2000 network, France plans to launch programs to acquire additional knowledge and to study, taking into account local contexts, the creation or extension of sites for reefs and marine mammals.</p> <p>In Natura 2000 areas, the project holder must carry out analyses and biological inventories to determine the species present on the project site and their legal status as well as their level of preservation</p> <p>Concerning the fishing risk analysis, these have been conducted since last year on the * Habitats of Community interest* within Natura 2000, as part of the method published last year.</p> <p>Concerning fisheries risk analysis on *species of Community interest*, France undertook to produce this method by the end of the year, to carry out analysis and identify the sectors at risk by 2026 and to propose measures to be put in place by 2027. This will involve "[taking] regulatory measures to ensure that these activities do not undermine the conservation objectives of the site, in compliance with the rules of the Common Maritime Fisheries Policy." (Article L 414-4 of the Environmental Code).</p> <p>Moreover, the french national law from 1976 regarding the protection of nature (article L.411-1 to L411-2 of the Code of Environment), allows the creation of lists of strictly protected species. In this case, project holders must submit an application for a derogation.</p> <p>France has also adopted different legal instruments to protect species and habitats. Some of these species and habitats are included in the OSPAR list of threatened/declining species and habitats. When it comes to the birds, France has adopted the "Arrêté du 9 octobre 2009 fixant la liste des oiseaux protégés sur l'ensemble du territoire et les modalités de leur protection" (Arrêté establishing the list of protected birds on the whole territory and the modalities of their protection)</p>		
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	<p>(https://www.legifrance.gouv.fr/loda/id/JORFTEXT000021384277/) which includes the <i>Larus fuscus fuscus</i>, <i>Pagophila eburnea</i>, <i>Puffinus assimilis baroli</i>, <i>Puffinus mauretanicus</i>, <i>Rissa tridactyla</i>, <i>Sterna dougallii</i> and the <i>Uria aalge</i>. It has also adopted the "Arrêté du 8 décembre 1988 fixant la liste des espèces de poissons protégées sur l'ensemble du territoire national" (Arrêté establishing the list of the species of fish protected on the whole national territory)</p> <p>(https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000327373/) which provides protection to <i>Coregonus lavaretus oxyrinchus</i>, <i>Petromyzon marinus</i> and to <i>Salmo salar</i>. The "Arrêté du 1er juillet 2011 fixant la liste des mammifères marins protégés sur le territoire national et les modalités de leur protection" (Arrêté establishing the list of marine mammals protected on the national territory and the modalities of their protection) (https://www.legifrance.gouv.fr/loda/id/JORFTEXT000024396902/) creates protection to mammals such as <i>Phocoena phocoena</i>. French Law also allows its local territories to provide a specific protection to habitats identified as declining and/or threatened by OSPAR, such as Coral Gardens, Intertidal mudflats and Littoral chalk communities ("Arrêté du 19 décembre 2018 fixant la liste des habitats naturels pouvant faire l'objet d'un arrêté préfectoral de protection des habitats naturels en France métropolitaine" [Arrêté establishing the list of natural habitats that may be the subject of a prefectural order for the protection of natural habitats in metropolitan France])</p> <p>(https://www.legifrance.gouv.fr/loda/id/LEGITEXT000037861276/2021-03-01).</p>		
<p>Germany</p>	<p>The German Federal Nature Conservation Act 2017 gives special protection to harbour porpoises and to marine habitats included in the OSPAR list of threatened and/or declining species and habitats (Intertidal <i>Mytilus edulis</i> Beds on Mixed & Sandy Sediments, Intertidal Mudflats, <i>Modiolus modiolus</i> beds, <i>Sabellaria spinulosa</i> Reefs, Sea-Pen & Burrowing Megafauna Communities and <i>Zostera</i> Beds). In accordance with the German Federal Nature Conservation Act (2017) it is prohibited, to injure or kill or to significantly disturb specimens of the strictly protected species such as the harbour porpoise (<i>Phocoena phocoena</i>), to destroy or significantly impair i.a. marine habitats such as salt marshes and tidal flats in coastal areas, seagrass beds and other marine macrophyte stands, reefs [including biogene reefs such as beds of blue mussels (<i>Mytilus edulis</i>), flat oysters (<i>Ostrea edulis</i>) or horse mussels (<i>Modiolus modiolus</i>) as well as <i>Sabellaria spinulosa</i> reefs] and mud grounds with burrowing megafauna.</p>		

	<p>When assessments of environmental impacts of human activities that may affect the marine environment of the German North Sea are prepared account of these mentioned species and habitats has to be taken.</p> <p>By administrative action: Incidental provisions in the approvals given by the Federal Maritime and Hydrographic Agency (BSH) for offshore construction sites (e.g. offshore wind farms) include measures to reduce underwater sound emissions during the installation of foundations. The measures include thresholds at activity level and application of noise abatement systems. Furthermore, a coordination of construction sites is required to account for cumulative effects.</p> <p>By negotiated agreement: To avoid significant disturbance to harbour porpoises a habitat approach is followed by the "Concept for the Protection of Harbour porpoise from Sound Exposures during the Construction of offshore Wind Farms in the German North Sea" of the Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU).</p>		
Luxembourg			
Netherlands	<p>The Dutch environmental permit procedure prescribes the evaluation of the significant effects of an activity on e.g. fauna, flora and biodiversity (article 7.7 en 7.23 wet milieubeheer). These articles leave a margin to assess whether the impact on species and habitats mentioned in recommendation 2010/5 should be part of the EIA. If the specific species mentioned in the recommendation are known to be existing in the area of where the activity will take place they are taken into account in the EIA.</p>	Lack of information on abundance of mentioned species in the Dutch EEZ	
Norway	<p>There are no measures specifically designed to implement the recommendation. However, the OSPAR list and the knowledge base in the background documents on species and habitats on the OSPAR List are taken into account directly or indirectly when assessing environmental impacts of human activities.</p> <p>Norway implements the EU EIA directive and the EU SEA directive in the Regulations on impact assessments (2017). Guidance documents have been developed for impact assessments under the various legislations. Starting up new human activities in Norwegian ocean areas will normally require an environmental impact assessment according to the Regulations on impact assessments.</p>	Lack of knowledge about distribution, abundance and status of listed species and habitats can be a difficulty in assessments of environmental impacts.	There is need for more information about to what extent information on OSPAR listed species and habitats is taken into account in assessments of

	<p>- Consequences for listed habitats and species is part of the considerations in environmental impacts assessments. According to national guidelines for EIA, threatened species and habitats shall be considered. Threatened habitats as defined by the national red list in the categories CR, EN and VU (and also NT if the measure considered will increase the risk for an NT habitat to be more threatened) and selected habitat types (according to the Nature Diversity Act) should be considered. Important habitats from the national habitat mapping programme shall also be included. For species categories CR, EN and VU in the national red list, priority species (according to the Nature Diversity Act) and species of particular national interest should be considered.</p> <p>The OSPAR listed species and habitats will therefore be considered in EIAs as long as there is overlap with these national systems. In particular in the coastal areas the overlap is quite good.</p> <p>However, today there is still a time lag in the national system for including red-listed threatened marine species and habitats as priority species and selected habitat types according to the Nature Diversity Act.</p> <p>- For oil and gas activities, the OSPAR list and the background documents are used in assessments of environmental impacts and in relation to mapping and monitoring of the seabed around installations.</p> <p>-Strengthening the knowledge base - habitat mapping is going on both in the coastal areas and in the oceans. Relevant listed threatened and declining habitats is a part of the habitat mapping programme.</p> <p>- Updated knowledge of the status and trends for threatened and declining species and habitats, including those on the OSPAR list, is incorporated and considered in the factual basis for the Norwegian integrated ocean management plans.</p>		<p>environmental impacts.</p>
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<p>Spain</p>	<p>OSPAR List is taken into account in the Environmental Impact Assessments (EIAs) of projects and in the Strategic Environmental Assessments (SEAs) of plan or programmes to be developed in the marine waters. The Deputy Directorate for the Protection of the Sea is consulted in the EIA and SEA processes, stating in their reports the presence of the species in the OSPAR List, where appropriate.</p> <p>In Spain there are also other administrative procedures that require an assessment of the environmental impact of human activities: International oceanographic campaigns that take place in the Spanish jurisdictional waters require an administrative authorisation given by the Ministry of Foreign Affairs and Cooperation. The Ministry of Agriculture, Fisheries, Food and Environment is informed about these campaigns and submits a report on the environmental impact taking into account, among some other aspects, the OSPAR List species and habitats.</p> <p>Moreover, according to the Spanish Law 41/2010, for the protection of the sea, the human activities in the marine waters must be compatible with the environmental targets of the Marine Strategy. These targets are directly related to other European Environmental Policies and Regional Marine Conventions. For instance, the target A.3 states Ensure the conservation of marine species and habitats, especially those considered threatened or in decline.</p>	<p>OSPAR List of Threatened &/or Declining Species and Habitats is not a binding instrument, as is the case for other Lists approved by other Conventions. For example, when some species are included in Annex II of Barcelona Convention, environmental national legislations must be modified in order to protect these species. One of the main difficulties found in the application of measures aimed at the protection of Species and Habitats included in the OSPAR List is the fact that they must not necessarily be included in national legislation, and consequently measures adopted to protect them are in most of the cases recommendations or voluntary actions.</p>	
<p>Sweden</p>	<p>There is a requirement to describe any impacts to the Swedish redlist, HELCOM, and OSPAR species list. This is usually done in the Environmental Impact Assessment as part of the application for the marine activity. If it is not, we can request that this information will be supplied. Subsequently, when giving the permit, conditions can be</p>		<p>As the procedure for EIA stipulates the inclusion and consideration of the OSPAR species</p>

	<p>set, for example limiting the impact of certain species by regulating which dates certain activities can be performed, or avoiding certain areas.</p>		<p>list, there is no need to further regulate this in the Swedish environmental code.</p>
<p>United Kingdom</p>	<p>In the UK, the OSPAR list of threatened and/or declining species are considered as part of assessments of environmental impacts of human activities that may affect the marine environment, where they are also afforded protection through our national legislation.</p> <p>Legislation has been adopted to protect a range of marine species and habitats in the UK. Through our Conservation Regulations (Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation Regulations 2007) we have designated a suite of Marine Protected Areas, which include protection for OSPAR listed species and habitats. For example, six marine protected areas are designated to protect deep-sea sponge aggregations, a habitat on the OSPAR list of threatened and/or declining species, and all these MPAs have been formally notified as OSPAR MPAs. We also list species or habitats of principal importance in England, Scotland, Wales and Northern Ireland under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 (England), Section 7 of the Environment (Wales) Act 2016, Section 2(4) of the Nature Conservation (Scotland) Act 2004, and Section 3(1) of the Wildlife and Natural Environment Act (Northern Ireland) 2011. In Northern Ireland, the Department of Agriculture, Environment & Rural Affairs (DAERA) have undertaken a review of the biodiversity lists (as required under the Wildlife and Natural Environment Act 2011) to include recent additions to the OSPAR Threatened and Declining species and habitats lists. Once finalised this will form part of the advice for the consideration of EIAs.</p> <p>Full details of implementation of measures, including implementation of OSPAR Recommendations for every threatened or declining species or habitat on the list that occur within UK waters can be found in the up-to-date annual submissions by the UK on the implementation reporting on OSPAR list of threatened and/or declining species and habitat.</p>		

	<p>Potentially damaging licensable activities are regulated and managed by UK competent authorities through UK legislation implementing the EC Habitats Directive (Council Directive 92/43/EEC), e.g. The Conservation of Habitats and Species Regulations 2010 (as amended), The Marine Works (EIA) Regulations 2007 (as amended) and The Marine and Coastal Access Act (2009). Consideration of potential direct and indirect damage to the marine environment and the protected species and habitats is part of applicable marine licence processes, and consent conditions may be imposed that restrict temporal or spatial impact. Projects which have the potential significant effect on the environment are required to undertake an Environmental Impact Assessment, taking into account potential impacts to protected species and habitats. The procedure requires that development consent (for example, planning permission) for projects which are likely to have significant effects on the environment should be granted only after an assessment of the likely significant environmental effects of those projects has been carried out.</p> <p>Furthermore, the 25 Year Environment Plan in England sets out the UK government’s plan to improve the environment within a generation. This will be achieved through revering the loss of marine biodiversity and, where practicable, restoring it, making sure populations of key species are sustainable with appropriate age structures, and ensuring seafloor habitats are productive and sufficiently extensive to support healthy, sustainable ecosystems.</p> <p>In addition, the Fisheries Act contains an obligation to minimise and where possible eliminate bycatch of sensitive marine species, which encompasses the relevant species listed in the OSPAR list of threatened and/or declining species and covers the significant human impact of fisheries. For cetaceans we are preparing to consult on our small cetacean conservation strategy which covers a range of species, including harbour porpoise, and covers a range of human impacts such as underwater noise and wildlife tourism. We are also undertaking a pilot project in the south west of England to evaluate the effectiveness of different of mitigation measures at reducing cetacean bycatch (relevant for harbour porpoise), developing national bycatch plans of action for seabirds and cetaceans which we are aiming to publish in April and we are in the process of developing a Seabird Conservation Strategy which will cover a range of seabird species and will consider a range of threats.</p>		
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Our vision is a clean, healthy and biologically diverse North-East Atlantic Ocean, which is productive, used sustainably and resilient to climate change and ocean acidification.

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