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REPORT

on the proposal for a Council regulation amending Regulation (EC) No 850/98 as regards the protection of deep-water coral reefs from the effects of trawling in an area north west of Scotland
(COM(2003) 519 – C5-0446/2003 – 2003/0201(CNS))

Committee on Fisheries

Rapporteur: Elspeth Attwooll

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 19 September 2003 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty, on the proposal for a Council regulation on amending Regulation (EC) No 850/98 as regards the protection of deep-water coral reefs from the effects of trawling in an area north west of Scotland (COM(2003) 519 – 2003/0201(CNS)).

At the sitting of 22 September 2003 the President of Parliament announced that he had referred the proposal to the Committee on Fisheries as the committee responsible and the Committee on the Environment, Public Health and Consumer Policy for its opinion (C5-0446/2003).

The Committee on Fisheries appointed Elspeth Attwooll rapporteur at its meeting of 2 October 2003.

The committee considered the Commission proposal and draft report at its meetings of 4 December 2003 and 20 January 2004.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Struan Stevenson (chairman), Rosa Miguélez Ramos (vice-chairwoman), Elspeth Attwooll (rapporteur), Niels Busk, Salvador Jové Peres, Heinz Kindermann, Carlos Lage, Giorgio Lisi, Ioannis Marinos, Patricia McKenna, Neil Parish (for Brigitte Langenhagen), Manuel Pérez Álvarez, Joaquim Piscarreta, Dominique F.C. Souchet, Catherine Stihler, Margie Sudre (for Hugues Martin) and Daniel Varela Suanzes-Carpegna.

The Committee on the Environment, Public Health and Consumer Policy decided on 7 October 2003 not to deliver and opinion.

The report was tabled on 27 January 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation amending Regulation (EC) No 850/98 as regards the protection of deep-water coral reefs from the effects of trawling in an area north west of Scotland
(COM(2003) 519 – C5-0446/2003 – 2003/0201(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the Commission proposal to the Council (COM(2003) 519)[1],

– having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0446/2003),

– having regard to Rule 67 of its Rules of Procedure,

– having regard to the report of the Committee on Fisheries (A5-0019/2004),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission	Amendments by Parliament
	Amendment 1 RECITAL 2 a (new)
	(2a) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy stipulates that the principles of good governance by which the new CFP should be guided include 'a

[1] Not yet published in OJ.

	decision-making process based on sound scientific advice' and 'involvement of stakeholders at all stages'.

Justification

It would be inappropriate, to say the least, not to make reference to the new CFP framework regulation.

Amendment 2
RECITAL 3

(3) ***According to recent scientific reports , and in particular the reports of the International Council for the Exploration of the Sea***, aggregations of deep-water corals (Lophelia pertusa) have been found and mapped ***in detail*** in an area north west of Scotland falling within the jurisdiction of the United Kingdom. ***Those*** aggregations, known as the "Darwin Mounds", appear to be in good conservation status but show signs of damage ***due to bottom trawling operations***.	(3) According to ***the 2002 report of the ICES Advisory Committee on Ecosystems (ACE)***, aggregations of deep-water corals (Lophelia pertusa) have been found and mapped in an area north west of Scotland falling within the jurisdiction of the United Kingdom. ***Throughout the area containing those*** aggregations, known as the "Darwin Mounds", ***as identified in the 2002 ACE report, the sand mounds topped with Lophelia coral ("Darwin Mounds")***, appear to be in good conservation status but ***some appear to*** show signs of damage ***caused by fishing gear***.

Justification

The area containing the 'Darwin Mounds' was identified in the 2002 report of the ACE (the ICES Advisory Committee on Ecosystems). The Commission proposal is based on the ACE's 2003 report, which took over without further analysis the report which the Study Group on Cold Water Corals (SGCOR) produced in May 2003 (ICES CM 2003/ACE: 02, Ref. E, pages 6 to 8).
The area containing the mounds, as identified in the 2002 ACE report, amounts to no more than 169 square kilometres (in fact comprising two separate fields), while the area referred to in the Commission proposal covers close to 1 530 square kilometres.

Amendment 3
RECITAL 6

(6) According to the scientific evidence, recovery from damage to coral produced by trawl gear towed through the bottom is either impossible or very difficult and slow. It is therefore appropriate to prohibit the use of ***bottom trawls and similar*** gear in the area	(6) According to the scientific evidence, recovery from damage to coral produced by trawl gear towed through the bottom is either impossible or very difficult and slow. It is therefore appropriate to prohibit the use of ***fishing*** gear ***likely to cause real damage***

surrounding the Darwin Mounds.	***to the coral reefs*** in the area ***containing*** the Darwin Mounds***, as identified in the 2002 report of the ACE***.

Justification

It should be made clear that the Commission measures cover only fishing gear that damages the coral reefs.

Attention needs to be drawn to the fact that the area containing the mounds, as identified in the 2002 ACE report, amounts to no more than 169 square kilometres (in fact comprising two separate fields), while the area referred to in the Commission proposal covers close to 1 530 square kilometres.

Amendment 4
RECITAL 6 b (new)

	(6b) In order to guard against any risk of discrimination, the Darwin Mound protection measures taken should be confined solely to fishing gear likely to cause real damage to the coral reefs.

Justification

It should be made clear that the Commission measures cover only fishing gear that damages the coral reefs.

Amendment 5
ARTICLE 1 a (new)

	Article 1a
	The regional advisory councils shall be consulted on the management of fisheries on the Darwin Mounds.

Justification

It would be inappropriate, to say the least, not to make reference to the new CFP framework regulation.

EXPLANATORY STATEMENT

In summary, the rapporteur does not wish to propose amendments to the proposal but for the reasons laid down below wishes to highlight the following:

The Commission must ensure that interim protection is extended should this current proposal not enter into force before the expiry of Regulation 1475/2003.

The UK Government should designate the Darwin Mounds as an SAC (Special Area of Conservation) as quickly as possible and ensure that the fishing industry and future Regional Advisory Councils are consulted meaningfully about its management – it has already taken too long to do so.

There is a need to identify comprehensively offshore habitats of European importance and the ongoing work to locate cold water coral reefs and ascertain damage done thereto needs more support from the EU.

The Commission and Member States should work in collaboration with the fishing industry to extend the protection of the Habitats Directive to other offshore habitats that are suitable candidates, whilst ensuring this does not cause further undue hardship to the fishing industry.

1. Discovery of the Darwin Mounds

Named after the research ship, *Charles Darwin*, the Darwin Mounds were first discovered in 1998 during a large regional survey conducted by the Atlantic Frontier Environmental Network. They are to be found approximately 185 km north west of Scotland's Cape Wrath. They consist of hundreds of mounds, each approximately 100m in diameter and 5m in height. Each mound is a cone shaped "sand volcano" created by fluid release and most of them have unique tail features heading downstream forming teardrop areas hundreds of metres in length. Sitting at a depth of 1000m they cover an area of roughly 100km^2. There are two main fields, referred to as Darwin Mounds East (13km x 4km with about 75 mounds) and West (13km x 9km with about 150 mounds) [1], although subsequent studies show the "mound features" covering an area larger than the two main fields at a lower density [2].

2. Importance of the site – scientific evidence

The mound-tail feature of the Darwin Mounds is unique globally. Said to be the best example of cold water coral reef in UK waters, it is home to living stands of *Lophelia pertusa* and other cold water corals. The corals provide a habitat for various species of larger sessile or hemi-sessile invertebrates, such as sponges and brisingiids. The tails are host to large numbers of one-celled organisms called xenophyophores, *Syringammina fragilissima*, which are fragile but an important foodstuff for deep-sea fish.

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1 2002 Report of the ICES Advisory Committee on Ecosystems, p. 21

2 2003 Report of the ICES Advisory Committee on Ecosystems, p. 125

The reef helps to maintain up to 300 different species of wildlife, including deep-sea fish and is a vital focus for fish reproductive cycles. It is noted that the density of fish in the area would appear no higher than in the background. Nevertheless the importance of this and other coral reefs must be appreciated. 65% of fish species in the sea are dependent on reefs at some point in their life [3]. At a time when some fish stocks are said to be dwindling to the point of collapse, we should not ignore the role that habitats, such as this, play in helping to sustain the marine environment.

3. Risks to the site

The most recent study of the reef has shown what would appear to be the damaging effect of demersal trawling on the area. High frequency sonar observations show seabed lineations and parallel scar marks, some tracking directly through the Mounds, most likely caused by demersal trawl nets. Damage was visible across about half of the Darwin Mounds East. Other studies have recorded smashed and damaged coral over significant areas of the Mounds and a reduction in biodiversity[4]. Much of this damage is said to be permanent and was at risk of being compounded before the imposition of the Commission emergency measures. The need for protection is unequivocal.

Possible interests in oil and gas exploration and carbonate extraction pose further risks to the Mounds. This is a matter for the area's management plan, should it receive SAC designation (see below) and not for the present Regulation.

4. Protection of the Darwin Mounds

A number of areas in UK offshore waters have been identified as habitats listed in the Habitats Directive comprising reefs, shallow sandbanks and submarine structures made by leaking gases. The EU definition of reefs includes biogenic reefs, which include those formed by cold water corals. Given the above considerations, it is clear that the Darwin Mounds should be given protection as a Special Area of Conservation.

The British Secretary of State for the Environment announced in October 2001 that the protection of the Darwin Mounds was a top priority and that the Government hoped to lay the necessary regulations by early 2002. The UK Government is still considering the designation of the Darwin Mounds as a SAC, although it has notified the Commission of its intention to do so. At the time of drafting this report, a UK consultation on legislation to apply the Habitats Directive beyond its territorial waters concluded on 29 October and a decision on comments received is awaited. A separate consultation on the designation of the Darwin Mounds as an SAC is due to end on 5 December 2003. A positive decision on the latter will

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3 Myers, Norman, 1992, "Synergism, joint effects of climate change and other forms of habitat destruction", Robert L. Peters & Thomas Lovejoy, (eds.), Global warming and biological diversity, Yale University Press.

4 Wheeler et al, Proceedings from the Symposium on the effects of Fishing Activities on Benthic habitats: Linking Geology, Biology, Socioeconomics and Management. Ed. by J Thomas and P Barnes. American fisheries Society, Bethesda, Maryland, USA.

though still require transposing regulations to be in place.

It is for the Community to manage fishing activity and on 20 August 2003 the Commission adopted Regulation 1475/2003 to ban for six months the use of bottom trawling in the area of the Darwin Mounds. This is the first occasion on which the emergency powers, introduced under Regulation 2371/2002, have been invoked. The rapporteur applauds this move as evidence of the positive benefits of the reformed CFP.

Despite its intentions, the rapporteur feels the UK Government's approach to protecting the Darwin Mounds has been regrettable. More than two years after the announcement on SAC designation, consultations continue. It took longer than necessary to request the emergency measures, giving added weight to calls for a more decentralised management structure within the CFP, which may have allowed a swifter response to what is primarily a localised issue. The fishing industry complains, too, of a serious lack of meaningful consultation during the preparation of these measures – something that decentralised management should also help to avoid. It is essential that all the relevant stakeholders or the future Regional Advisory Council are consulted in time and continuously on the management of the site.

5. Examination of the current proposal

The proposal seeks to amend Article 30 of Regulation 850/98 to prohibit the use of bottom trawl or similar towed nets that operate in contact with the bottom of the sea within the area of the Darwin Mounds. This will give permanence to the existing emergency ban. The area set down in the proposal surrounds the two main sites and the extended field of mounds described above while providing a minimum 2.2km margin surrounding this area [5].

The area is fished by vessels from a number of Member States, including Ireland, Germany and France. The ban only affects specific types of fishing activity and operates within a relatively small area. The effects of the proposal on the fishing and related industries should be minimal. The ban does not impact on fishing activities where the gear in use has no contact with the seabed. Vessels affected by the restriction should be able to meet their quotas by fishing outwith the said area as well as by using non-restricted fishing gear within it.

A positive impact will be to protect an important natural feature that plays an integral and important part in the life of fish and thus the future sustainability of stocks. The rapporteur does not feel it is necessary to propose amendments to the current proposal.

6. The wider European problem

ICES confirmed in 2002 that "in the Northeast Atlantic reefs occur from the Iberian Peninsula to Ireland, around the Rockall Bank, the Faroe Islands and near the coast and on the shelf along the Norwegian coast" [6]. The most significant reef building coral in Northeast Atlantic

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5 Note 3, p. 125

6 Note 2, p. 18

waters is *Lophelia pertusa*. Collections of it are found on the Rockall Bank, in Irish waters, whose Theresa Mound is said to be "some of the best-developed coral ecosystems known in the Northeast Atlantic" [7], and in plenty in areas such as the Chapelle Bank, the Galicia Bank, the Canary Islands, Madeira and the Azores. ICES has stated that there is a considerable amount of trawling taking place in areas that are home to *Lophelia pertusa* (where protection is absent). Surveys have now found trawl marks all along the Northeast Atlantic shelf break area. The breaking up of these reefs has effects on the hydrodynamic and sedimentary processes and results in a loss of shelter around the reef, with obvious effects on the dependent wildlife. Knowledge appears to remain incomplete, however, and a great deal more survey work is needed. The rapporteur looks forward to a number of reports due in 2004, such as that of IUCN and UNEP, and recognises the important work of others, such as the Atlantic Coral Ecosystem Study.

The Declaration of the Joint Ministerial Meeting of the OSPAR and Helsinki Commissions in June 2003 recognised the vulnerability of habitats, such as cold water coral reefs. At the time of writing, the Commission is said to be planning to bring forward proposals for a more comprehensive strategy to protect the EU's reefs. Given the importance of such natural features, the rapporteur supports the Commission's intention but is concerned that the fishing industry remains fully involved in this process.

In parallel, work on developing the European Marine Strategy is taking place under the auspices of the Habitats Committee in the form of the Marine Experts Working Group, whose aim is to produce a programme that will improve the protection of species and habitats in EU waters by 2005. This may lead to proposals to modify the annexes of the Habitats Directive so that the full effects of the Natura 2000 network can be extended to European seas. The rapporteur is keen, again, that the fishing industry and Regional Advisory Councils are involved fully in the future management of such sites.

Lastly, coral reefs are referred to as the "rainforests of the sea" and they too are facing the problems of climate change. Annual sea temperature for the North Sea in 2002 may turn out to be one of the highest on record. In the North Atlantic (east of 20ºW) and in European seas, scientists are finding "significant pole-ward movement of warm species associated with a clear decrease in the number of subarctic and arctic species in the north" and "major biogeographical shifts for all species assemblages have taken place since the early 1980s to the southwest of the British Isles and from the mid-1980s in the North Sea" [8]. While this proposal goes a small way to improving the marine environment, we must not lose sight of the challenges that remain.

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7 Note 2, p. 23

8 "Reorganization of North Atlantic Marine Copepod Biodiversity and Climate", G Beaugrand, P Reid, F Ibañez, J A Lindley, M Edwards, Science 296, 1692 (2002).