

WRITTEN QUESTION P-2562/08
by Dorette Corbey (PSE)
to the Commission

Subject: Ban on mussel seed fishery in the Waddenzee

On 27 February 2008, the Netherlands Council of State declared partially well-founded the objections of the Bird Protection Association to the effect that no licence should have been granted for fishing for mussel seed in the Waddenzee in 2006. The licence had used the term 'adaptive management' to make it possible to respond if damage occurs (by analogy with the 'hand-on-the-tap' principle for gas extraction, which allows extraction to be halted when that is found to be necessary). The ruling is based on the Habitats Directive and amounts to stating that conclusive evidence must be provided that no damage is occurring to habitat type 1110, although no description is given of the requirement(s) with which the area in question is expected to comply. An inquiry is under way into possible effects of mussel seed fishing, which is to be completed in 2010. The Council of State therefore takes the view that the appropriate assessment as required by the Habitats Directive has not yet been performed.

1. Mussel fishing in the Waddenzee is an existing activity and there are years of experience of it. Again and again, mussel seed settles in places where fishing has taken place. Can years of experience suffice to make an appropriate assessment? Does existing use apply to an activity which has been going on for more than a century, or does this constitute a fresh plan or project each year? Does the Commission consider that, by granting licences for a number of years - including the compulsory and monitored application of adaptive management in the event of damage - the Netherlands can in principle comply with the requirements of the Habitats Directive?
2. The objectives regarding the recovery of the area in question have not been defined precisely. It is not clear, therefore, what requirements mussel fishermen have to comply with. As a result, uncertainty persists. Can the Commission clarify what the recovery objective comprises and at what speed recovery must take place? Does not the requirement to provide conclusive evidence that no damage is occurring constitute rather too strict an application of the precautionary principle?
3. Does the way in which the Netherlands is implementing the Habitats Directive correspond to the way in which Germany and Denmark - where fishing for mussel seed is also practised - are doing so?
4. In the case of the mussel fishermen, is the Netherlands complying sufficiently with Article 2(3) of the Habitats Directive, which requires Member States to take account of economic, social and cultural requirements?