



COMMISSION OF THE EUROPEAN COMMUNITIES

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2004/0020 (CNS)

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 certain areas of the Atlantic Ocean

(presented by the Commission)

EXPLANATORY MEMORANDUM

The process of integration of environmental protection requirements into the Common Fisheries Policy calls for the adoption of measures to minimise the impact of fishing activities on marine ecosystems. This requirement is expressly mentioned in Article 2 of Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

Recent scientific reports have shown that certain deep-water habitats are in need of protection against mechanical erosion by fishing gear. These include the habitats formed by deep-water coral (*Lophelia pertusa*) aggregations, thermal vents and carbonate mounds. According to recent scientific reports, and in particular the reports of the International Council of the Exploration of the Sea (ICES), several of these habitats have been found and mapped in the Atlantic. *Lophelia pertusa* has been recorded off the Canary Islands and in several sites at depths mostly greater than 1000m around the Atlantic islands of Madeira and the Azores.

These deep-water habitats are defined as habitats of Community interest in Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora¹. Furthermore, they are increasingly the subject of attention in international fora concerned with environmental protection. For example, the Convention for the Protection of the Marine Environment of the North-East Atlantic ("OSPAR Convention") has recently included deep-water coral reefs in a list of endangered habitats. Deep-water habitats are also being dealt with within the United Nations informal consultative process on oceans and the law of the sea (UNICPOLOS) as vulnerable habitats requiring special protection. Several coastal States around the world have already taken the required protection measures. On 20 August 2003 the Commission, at the request of the UK, approved emergency measures pursuant to Article 7 of Regulation 2371/2002, banning the use of bottom trawl gear in the Darwin Mounds, and a proposal is in course of decision-taking by Council to make this measure permanent by way of an amendment to Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms².

Moreover, the Community fishing zone around the Azores, Madeira and Canary Islands contains several known or potential deep water habitats that have so far been preserved from trawling due to the special access regime defined in Council Regulation (EC) No 2027/95. As this regime will cease to apply in 2004, it is now important guarantee a continuity of the protection of these areas as part of Community legislation.

In preparing this proposal for protection to these important marine habitats, the Commission has considered the most recent reports of ICES. In particular, ICES has called the attention to the sensitivity of these habitats to the effects of trawling.

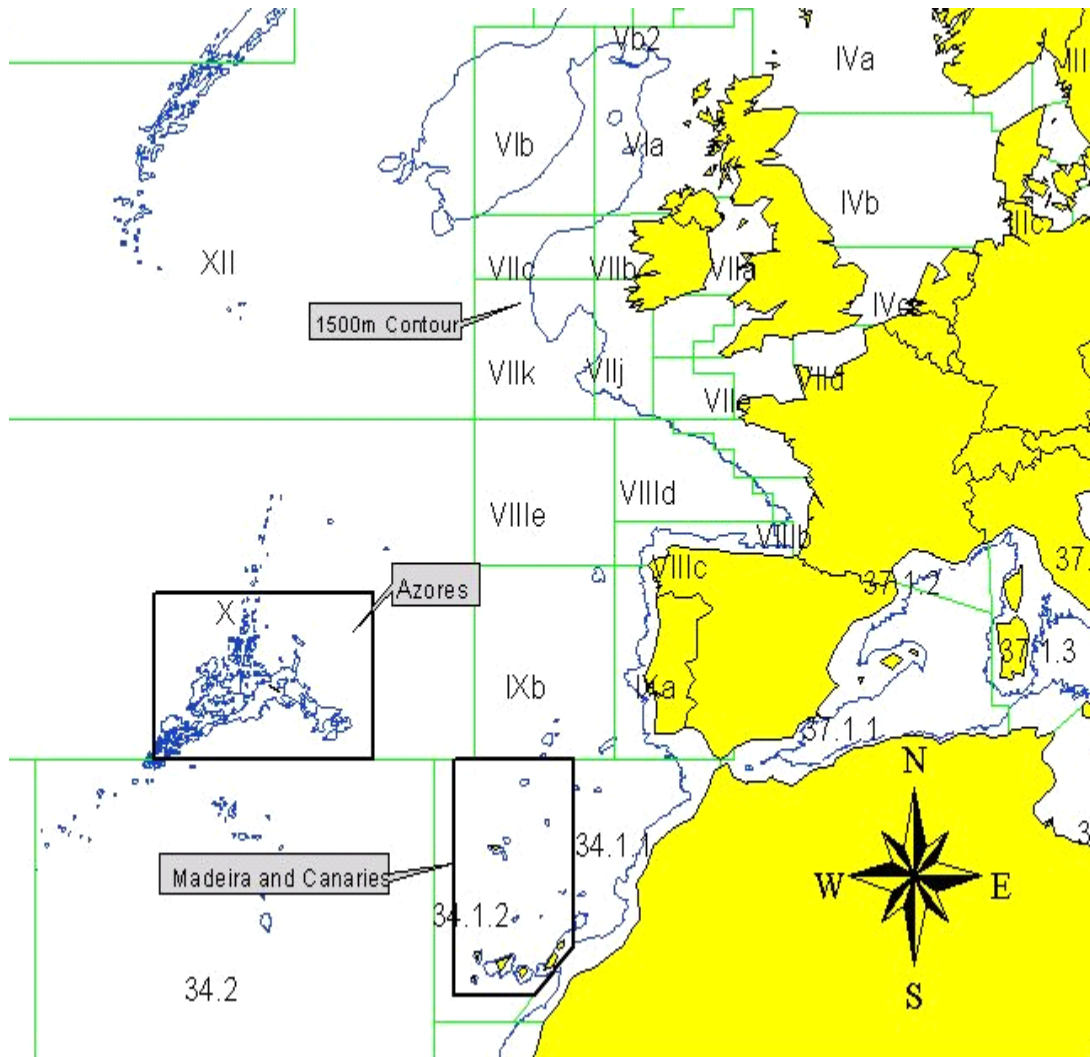
In view of the above mentioned considerations and given the importance that damage from erosion by bottom trawls may have for the survival of these habitats, it is appropriate to issue a prohibition of the use of trawls in the areas concerned (see map attached), by way of an amendment to the existing technical measures regulation (Regulation (EC) n°850/98). This amendment will be included in the recast of the latter Regulation, which is under consideration by the Council of Ministers at the moment.

¹ OJ L 358, 31.12.2002, p. 59.

² OJ L 125, 27.4.1998, p. 1.

While the long-term environmental benefits of the measure will be significant, the fishing industry will not suffer major consequences, since the prohibition to trawl exists already at present. In addition, fleets can continue to fish within the protected area using towed gear not in contact with the bottom, such as pelagic trawls and longlines, purse seines and other fixed gear.

For information purposes a map showing the areas concerned is attached to this explanatory memorandum.



Map of proposed areas where bottom trawling is forbidden.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the European Parliament⁴,

Whereas:

- (1) Article 2 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy⁵ provides that the common fisheries policy is to apply the precautionary approach in taking measures to minimise the impact of fishing activities on marine ecosystems.
- (2) Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms⁶ establishes restrictions on the use of demersal towed gears.
- (3) According to recent scientific reports, and in particular the reports of the International Council for the Exploration of the Sea (ICES), highly sensitive deep-water habitats have been found and mapped in the Atlantic. Those habitats host important and highly diverse biological communities and are considered to require priority protection. In particular, they are defined as habitats of Community interest in Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora⁷. Furthermore, deep-water coral reefs have recently been included in a list of endangered habitats in the framework of the Convention for the Protection of the Marine Environment of the North-East Atlantic ("OSPAR Convention").

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

⁵ OJ L 358, 31.12.2002, p. 59.

⁶ OJ L 125, 27.4.1998, p. 1. Regulation as last amended by Regulation (EC) No 973/2001 (OJ L 137, 19.5.2001, p. 1). [Regulation as last amended by Regulation (EC) No [...]/...] OJ C [...], [...], p. [...].

⁷ OJ L 206, 22.7.1992, p. 7

- (4) According to scientific evidence, recovery from damage to these habitats 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 areas where these habitats are still in a favourable conservation status.
- (5) The waters around the Azores, Madeira and Canary Islands contains several known or potential deep water habitats that have so far been preserved from trawling due to the special access regime defined in Council Regulation (EC) No 2027/95 of 15 June 1995 establishing a system for the management of fishing effort relating to certain Community fishing areas and resources⁸.
- (6) Therefore, it is appropriate to ensure the protection of those areas through an extension of the restrictions on the use of demersal towed gears contained in Regulation (EC) No 850/98.
- (7) Regulation (EC) No 850/98 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 30 of Regulation (EC) No 850/98, the following paragraph 4 is added:

“4. Vessels shall be prohibited from using any bottom trawl or similar towed nets operating in contact with the bottom of the sea in the areas bounded by a line joining the following coordinates:

- a) area named “Madeira and Canaries”
 - Latitude 27° 00’N longitude 19° 00’ W
 - Latitude 26°00’ N longitude 15° 00’ W
 - Latitude 29° 00’N longitude 13° 00’ W
 - Latitude 36° 00’N longitude 13° 00’ W
 - Latitude 36° 00’ N longitude 19° 00’ W
- b) area named “Azores”
 - Latitude 36° 00’ N longitude 23° 00’ W
 - Latitude 42° 00’ N longitude 23° 00’ W
 - Latitude 42° 00’ N longitude 34° 00’ W
 - Latitude 36° 00’ N longitude 34° 00’ W”

⁸ OJ L 199, 24.8.1995, p. 1. Regulation as amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...]

*For the Council
The President*