



House of Commons

Environment, Food and Rural
Affairs Committee

**Beyond the Common
Fisheries Policy: Scrutiny
of the Fisheries Bill:
Government Response
to the Committee's
Eleventh Report of
Session 2017–19**

**Second Special Report of Session
2019–21**

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The Environment, Food and Rural Affairs Committee

The Environment, Food and Rural Affairs Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Environment, Food and Rural Affairs and associated public bodies.

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Committee staff

Ross Anderson (Placement Student), Ian Blair (Committee Assistant), Ian Bradshaw (Committee Clerk), Jonathan Finlay (Committee Specialist), Andy French (Committee Specialist), Beth Goodwin (Senior Committee Assistant), Tim Jarrett (Second Clerk), Xameerah Malik (Senior Committee Specialist), Emily Pritchard (Media Officer), Annabel Russell (Committee Assistant).

Contacts

All correspondence should be addressed to the Clerk of the Environment, Food and Rural Affairs Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 1119; the Committee's email address is efracom@parliament.uk.

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Second Special Report

The Environment, Food and Rural Affairs Committee published its Eleventh Report of Session 2017–19, *Beyond the Common Fisheries Policy: Scrutiny of the Fisheries Bill* (HC 1722), on 20 January 2019. The Government response was received on 9 March 2020 and is appended to this report.

Appendix: Government response

Reporting and assessment

The Government should amend the Bill so that the Joint Fisheries Statements (for the UK Government and the Devolved Administrations) and the Secretary of State's Fisheries Statement will: (a) be subject to an interim review every three years and full review every six years; and (b) comprise an expert and independent published assessment that can be subject to public and parliamentary scrutiny.

Following discussion with the Devolved Administrations (DAs), the Government is happy to accept this sensible recommendation and the revised Bill requires the UK and the DAs to jointly report on progress in implementing the Joint Fisheries Statement within three years of publishing a statement and an equivalent requirement in relation to the Secretary of State Fisheries Statement. These reports will be subject to public scrutiny.

Delegated powers

The Government should establish a non-statutory advisory body, which can provide a forum for consultation and communication with stakeholders, for the new fisheries management system that will be established when the UK becomes an independent coastal state. This will help to provide transparency and confidence in the decision-making process, including in the application of the Fisheries Bill's delegated powers. This body needs to have the credibility to make a real and sustained impact, encouraging support and buy-in for the new system among all stakeholders, including the fishing industry, the scientific community and environmental groups.

The Government is grateful for the Committee's recommendation for the establishment of a non-statutory advisory body. Both the 25 Year Environment Plan and Fisheries White Paper provide commitments to closer partnership working with industry and stakeholders to develop fisheries policies that better meet UK needs after the Transition Period.

We are committed to consulting and working in closer partnership to develop our future fisheries policy, whether or not it is required in legislation. This builds on our track record in seeking the advice of stakeholders in the shaping of fishing opportunities and development of policy. We already have a well-established External Advisory Group which uses advice of key representatives from the catching sector, processing sector, retail and environmental organisations. More recently we have established expert groups to consider specific issues such as the landing obligation, and we are working with industry and the Sea Fish Industry Authority to develop new ways to manage shellfish and inshore fisheries.

In relation to the delegated powers under what are now clauses 23, 27, 34, 36 and 38, the Secretary of State is required to consult appropriate stakeholders before exercising those powers (as will the Devolved Administrations under equivalent powers). There are also statutory consultation processes that must be met when preparing or amending a joint fisheries statement, fisheries management plans, and the Secretary of State's fisheries statement included in Schedule 1 to the Bill, which includes provision for handling select committee recommendations (e.g. see paragraph 7 of that Schedule).

Fisheries management in England

The Government should amend the Bill to more clearly designate the respective roles and powers of the MMO and IFCA in relation to their duties for fisheries and marine protection, and to ensure they both have the necessary enforcement powers and resources of personnel and protection vessels to fully deliver the requirements of the UK as an independent coastal state.

The Government appreciates the intention of this recommendation, but is of the view that it is unnecessary. The Marine and Coastal Access Act 2009 sets out the roles and statutory duties of both the IFCA and the MMO. Section 2(1) of the 2009 Act sets out the MMO's general objective for managing, regulating and controlling activities and Sections 153 and 154 set out the main duties of IFCA. As public authorities, both MMO and IFCA have general duties under Section 125 to 128 of the Act in relation to Marine Conservation Zones. In relation to marine nature conservation, each has duties under other legislations, such as the Conservation of Habitats and Species Regulations 2017. Under the 2009 Act, IFCA have a clearly defined role in managing their respective jurisdictions within the 0–6 nautical mile (nm) limits in England, and the MMO has explicit functions in relation to the 0–200nm area around England.

The organisations already cooperate closely in the management of the marine environment in the 0–12nm zone. The MMO and IFCA have a joint Memorandum of Understanding to recognise and respect the lead roles of both the IFCA and the MMO to deliver fisheries and conservation management in the 0–6 and 6–12 nautical mile zones respectively, ensuring a coordinated approach to management. At an operational level, IFCA and regionally based MMO officers collaboratively work by undertaking joint inspections and have established protocols, within the boundaries of GDPR and the Data Protection Act 2018, to share intelligence of matters of shared competency and jurisdiction. Where an issue crosses the 6nm boundary, the MMO and relevant IFCA work together to agree a lead regulator responsible for developing management measures. The MMO also have a role in quality assuring all IFCA byelaws to ensure consistency with management approaches between the inshore and offshore region.

The MMO has assessed the levels of enforcement capacity required once we become an independent coastal State and the options for best delivering this. We are undertaking a significant increase in the number of personnel and surveillance assets relating to fisheries protection with a sizeable increase now in place. Surface patrol vessels provide physical presence, deterrence and inspection capability. In addition, surveillance is undertaken using a combination of monitoring systems such as Vessel Monitoring Systems and Electronic Reporting and Data systems, as well as other methods such as aerial surveillance. We will continue to keep enforcement capability under review.

Additional opportunities

The Government should consult widely on the tender process for allocation of additional English quota and ensure buy-in from a range of stakeholders within the industry, including the operators of smaller vessels. Consultation should be followed by a trial, with feedback from affected parties to ensure workability and efficacy.

We are committed to consulting on the tender process for allocation and from learning and evaluating as we implement any new policy. However, given the Committee's recommendation, we have also included a statutory commitment to consult before making regulations providing for quota to be tendered or sold.

The Committee will note that Schedule 5 to the Bill now provides equivalent powers for the Welsh Ministers regulations and the same consultation requirement is provided.

Discards policy

The Government should trial and thoroughly consult on the discard prevention charging scheme and the associated secondary legislation to ensure it is workable, helps reduce discards and has stakeholder buy-in.

The Government agrees with this recommendation. We will consult industry and other interested parties and undertake economic modelling work to determine the appropriate level at which to set the charge based on this rationale.

The Government should establish a national research programme to identify new solutions to the issue of discard prevention with an aim of reporting its findings before the end of the transition period.

The Government is already running a number of research projects looking at discard prevention, from scientific gears trials to data collection on choke risks. The Government publishes the findings of these projects, providing the information is not commercially sensitive.

For example, the Centre for Environment, Fisheries and Aquaculture Science (Cefas) have run an observer programme since 2002 recording detailed information on the landed and discarded components of the catch, and the location, conditions and specifics of the fishing gear used.

The Fisheries Science Partnership programme, also run by Cefas, is another example of research projects underway. This programme delivers projects to support the implementation of the landing obligation through scientific assessments of stocks and investigating innovative methods to improve selectivity. The results of all of these projects are published on the Cefas data hub.

Sustainability in the Bill

The Government should amend the sustainability and precautionary objectives in Clause 1 to ensure the Bill commits the UK to: (1) its international commitments on achieving maximum sustainable yield under the United Nations' Sustainable Development Goals;

and (2) its obligations to marine protection under the Marine Strategy Framework Directive and the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention).

The Government is strongly committed to delivering its obligations under international agreements that relate to fisheries management.

We do not believe it would be appropriate to include references in the Bill to some, but not all, of the international obligations that we are signatories to and which, of course, in any event bind us and help shape our fisheries policy. The agreements listed in the recommendation are very important ones for fisheries. However, there are many other agreements not listed, which are also relevant to fisheries. These range from global World Trade Organisation rules through to obligations under Regional Fisheries Management Organisations. Including some, but not others, would not only give an incomplete picture of the breadth of the UK's international obligations but may also create the unintended effect of being required in law to address certain international agreements over others. International agreements will also evolve over time; existing agreements will be altered and new agreements will be reached, meaning that even if other international agreements were included, this could soon be outdated.

Our commitment to fulfil our international obligations remains as strong as ever, however, we are of the strong view that listing those in the Fisheries Bill would be unnecessary and likely counterproductive.

The Government should also amend the Bill to enshrine a future commitment to shared management of stocks, based on the best available scientific advice. These commitments should not be left to the Joint Fisheries Statement but should be made explicit in the Bill itself.

The Government is committed to working with other coastal States to manage shared stocks. The Government already has obligations under international law (UNCLOS and UNFSA) to cooperate on the management of shared stocks. Notably, Article 63 of UNCLOS requires the UK to “*seek, either directly or through appropriate sub-regional or regional organizations, to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks*”. UNCLOS and UNFSA also contain obligations to achieve MSY. This means that this and future Governments are already obliged under international law to cooperate with other states to manage shared stocks.

The fisheries objectives in clause 1 of the Bill underline our commitment to sustainable fisheries which includes the management of stocks we share with our coastal neighbours. The precautionary objective makes clear our commitment to achieve MSY and the scientific evidence objective sets out that fisheries management decisions should be based on the best available scientific advice.

Fisheries Management Plans will set out our priorities and approach to the recovery of stocks of interest to the UK. However, shared management of stocks based on the best available scientific advice can only be achieved through international negotiation, and domestic legislation cannot bind those we will be negotiating with.

The Government should also commit to a target date for Maximum Sustainable Yield (MSY)-level of exploitation of stocks. This should also be included within the next Joint

Fisheries Statement, as suggested by the Minister, to ensure the UK can align with future international commitments for sustainable fisheries. Decisions for setting the target date must factor in both the likely timescale of the Bill and the stated ambition to achieve MSY as part of the precautionary objective.

The Government is committed fishing at sustainable levels. Our commitment to fish at MSY was reaffirmed in the Fisheries White Paper as well as election manifesto. It is provided for in clause 1(3) which inserts the precautionary objective as an objective of the Secretary of State and the Devolved Administrations. The precautionary objective in the Bill provides for levels of fishing to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield.

The Bill now also includes a requirement to prepare and publish fisheries management plans, which will introduce legally binding policies to help us meet maximum sustainable yield for all stocks. The timescale for producing these plans will be set out in the Joint Fisheries Statement. They will be produced by the Secretary of State and the Devolved Administrations, where appropriate, and will set out actions that will be taken to restore stocks to sustainable levels, as well as addressing the wider ecosystem impacts of fishing. These new clauses in the Bill will enable the production of bespoke plans for the recovery of fish stocks and fisheries, ensuring that we put in place a flexible and targeted regime for management of fishing in UK waters that supports the recovery of stocks and meets our environment's and industry's needs once we are no longer bound by the CFP.

We acknowledge that the EU had a target to achieve MSY for all stocks by 2020. However, the EU themselves have accepted that this has not been met.

As the Committee will be aware, many of our stocks are shared with the EU and coastal States (meaning they inhabit both UK and non-UK waters). This means that we cannot unilaterally ensure that these shared stocks are fished at MSY. We will continue to pursue that goal, but it can only be achieved through international negotiation. If the UK was bound to set targets in line with MSY in domestic law, then it is likely that we may be unable to negotiate a shared agreement with other coastal States, increasing the likelihood of States unilaterally setting their own quotas and indirectly increasing the risk of unsustainable fishing persisting.

EMFF Funding

The Government should clarify what funding will be available to coastal communities after EMFF funding ends in 2020, and how eligibility for funding would be assessed.

On 10 December 2018, the then Environment Secretary announced that the Government will put in place new, domestic, long-term arrangements to support the UK's fishing industry from 2021. He also announced £37.2 million of extra funding for the UK seafood sector (which is available until 2022). The Government's 2019 manifesto committed to maintaining funding for fisheries across the UK's nations throughout the Parliament and support the regeneration of our coastal communities.

Clause 33 in the Fisheries Bill includes a power for the Secretary of State to replace, modernise, and broaden the existing grant-making powers in the Fisheries Act 1981. This will provide greater flexibility and ensure that any new grant schemes can deliver better

value for money. This version of the Bill includes additional powers to better support coastal communities by giving the option for providing funding on training schemes and supporting economic development and social improvements in areas where fishing and aquaculture activities take place.

The Devolved Administrations will lead on their own schemes through equivalent powers in Schedule 6; each will develop domestic policies that meet the needs of coastal communities across the country. Defra continue to gain valuable feedback and direction directly from industry, and are currently in a phase of early engagement to begin shaping the design of a future scheme for England.

We recommend that the Government commits fully to delivering its review of economic link conditions proposed in the Fisheries White paper. The Government should also make direct reference to this issue in the Bill by expanding Clause 2 to make specific reference to economic regeneration of coastal communities.

The Government accepts this recommendation. We believe that changes need to be made to the economic link condition to ensure that the maximum benefit accrues to UK communities from the fishing of UK quota. We acknowledge this in the Fisheries White Paper and stated that we would undertake a review of the effectiveness of the existing conditions.

Leaving the CFP presents an opportunity for us to reform the economic link condition. In line with the Committee's recommendation, the Bill includes a new "national benefit objective" to ensure that the UK benefits from fishing activities carried out by UK-registered fishing vessels fishing against UK quota. The UK Government and the DAs will have to set out their policies to deliver this in the Joint Fisheries Statement. This relates to a devolved matter and so the Government has agreed this approach with the Devolved Administrations.

This is a complicated issue and any changes in the economic link conditions may mean that parts of the fleet have to change their business models, so it is right that any changes are made after consultation. We are currently reviewing the impact of the economic link condition in England and ways to strengthen the policy where it is shown to be less effective while still providing vessel owners with the flexibility to operate profitably. This will produce proposals for reform of the economic link condition in England and we intend to consult on these proposals after the review concludes to ensure that they are consistent with the needs of the industry as we leave the CFP. Changes can be delivered through licence conditions and legislative changes are not required.

Recreational Fishing

We recommend that Clause 2(2)(h) be expanded to make explicit reference to recreational fishing.

Recreational angling is an important part of the UK fisheries sector, with significant economic benefits as well as impacts on the ecosystem. In line with our ecosystem approach, the Government agrees that it is right to look at these in the round.

The list of policies previously listed under clause 2 have now been incorporated in the Clause 1 objectives of the Bill ensuring that they apply on a UK-wide basis. Those objectives

apply to all types of fishing activities including both commercial and recreational sea fishing. In addition, clause 48 (the interpretation clause for the Bill) has been amended to make explicit that the definition of 'fish activities' applies to both commercial and non-commercial sea fishing. The Joint Fisheries Statement will therefore include policies relating to the recreational fishing sector.