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## *The National Assembly for Wales response to the individual chapters of the Salmon and Freshwater Fisheries Review Group report:*

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\* = chapter numbers as used in the Salmon and Freshwater Fisheries Review

### NOTE:

*The National Assembly for Wales has responded to each of the 195 recommendations. The missing chapters do not contain recommendations. The individual recommendations from the review are shown in italics.*

*The National Assembly for Wales response refers to the Ministry of Agriculture, Fisheries and Food (MAFF) and the Department for Environment Transport and the Regions (DETR). It should be noted that the recommendations in England will be taken forward by their successor Departments.*

## CHAPTER 3: THE OBJECTIVES AND SCOPE OF FISHERIES LEGISLATION

### **Objectives of fisheries legislation**

*1. Government involvement in the conservation of salmon and freshwater fish and the management of salmon and freshwater fisheries should have three principal objectives:*

- *to ensure the conservation and maintain the diversity of freshwater fish, salmon, sea trout and eels and to conserve their aquatic environment;*
- *to enhance the contribution salmon and freshwater fisheries make to the economy, particularly in remote rural areas and in areas with low levels of income;*
- *to enhance the social value of fishing as a widely available and healthy form of recreation.*

#### **Accept**

The National Assembly for Wales endorses these objectives for government involvement in the conservation of salmon and freshwater fish and the management of these fisheries. It notes that the objectives recommended here reflect its existing approach and, as the review group points out, are consistent with its policies in other areas. While it considers that the greatest weight should be given to the first of these objectives, to ensure conservation and maintain the diversity of salmon and freshwater fish and of the aquatic environment. It also attaches importance to enhancing the contribution salmon and freshwater fisheries make to the economy and to the recreational benefits of angling.

### **Scope of fisheries legislation**

*88. New legislation on salmon and freshwater fisheries should focus on providing Government and its agencies with the means to achieve their objectives for the conservation and management of salmon and freshwater fish. Problems that affect the freshwater environment as a whole should be dealt with through environmental legislation.*

#### **Accept**

The National Assembly for Wales agrees that there is a need to update primary legislation on salmon and freshwater fisheries, and will support MAFF in bringing forward proposals at an appropriate opportunity. MAFF are discussing with parliamentary colleagues a possible timetable for the introduction of such legislation and will apprise the Secretary of States Office as necessary.

95. *Section 4 of the Salmon and Freshwater Fisheries Act 1975 (poisonous matter and polluting effluent) should not be repealed until adequate replacement provisions are incorporated into general water pollution legislation.*

**Accept**

90. *Salmon and freshwater fisheries legislation should apply to all fish that normally complete their life-cycle in freshwater (and freshwater crayfish) wherever they occur; to salmon and sea trout to six miles from territorial sea baselines; to all other diadromous species and to sea fish when they are in waters inland of the inland limit of the jurisdiction of Sea Fisheries Committees.*

**Accept**

The National Assembly for Wales accepts the recommended clarification of the coverage of salmon and freshwater fisheries legislation, although, as pointed out by the Environment Agency, future legislation should continue to apply to eels (*Anguilla anguilla*) within the 6 mile limit.

## **Fisheries Duty**

3. *The Environment Agency's statutory duty to maintain, improve and develop salmon and freshwater fisheries should be retained. This duty should be interpreted as a duty on the Agency:*

- *to ensure the conservation and maintain the diversity of freshwater fish, salmon, sea trout and eels and to conserve their aquatic environment;*
- *to enhance the contribution salmon and freshwater fisheries make to the economy, particularly in remote rural areas and in areas with low levels of income;*
- *to enhance the social value of fishing as a widely available and healthy form of recreation.*

*This interpretation should be put on a statutory basis at the first available opportunity.*

**Accept**

A number of those commenting on the review, in particular the conservation agencies and the Moran Committee, argued that the Environment Agency should be concerned only with fish conservation, and not with enhancing the economic contribution or recreational benefits of freshwater fisheries. In the National Assembly for Wales view, however, this would be a mistake. As the Review Group points out, the rationale for the Government's involvement in, and expenditure on, salmon and freshwater fish and associated fisheries is based not only on the need to conserve fish stocks and maintain biodiversity; it is also based on the contribution that fisheries make to economic development, particularly in rural areas, and to recreation. It is the economic and social role of fisheries that distinguishes the Environment Agency's fisheries duty from its more general duty to contribute to the conservation of other forms of wildlife, and justifies dedicated Government expenditure on freshwater fisheries. In the

National Assembly for Wales view, the Environment Agency's fisheries duty should cover all the objectives of government policy for conservation of freshwater fish, including rare fish, and the management of freshwater fisheries. It thus agrees that this duty should be maintained, and that it should be interpreted as recommended by the Review Group. The National Assembly for Wales also agrees that this interpretation should be put on a statutory basis if an appropriate opportunity arises.

Others who commented on the review were concerned that if enhancing the economic contributions and social role of fishing became objectives of government policy, and a duty on the Environment Agency, this would discriminate in favour of fisheries and against other water-related recreational activities such as canoeing. The National Assembly for Wales does not believe, however, that these concerns are well founded. The Environment Agency already has a general duty to promote recreation, as well as a duty to take into account the economic and social interest for rural areas in the formulation of all its policies. The National Assembly for Wales looks to the Environment Agency to exercise all its duties in a balanced way, taking full account of all relevant interests.

## **Secondary legislation**

*89. New salmon and freshwater fisheries legislation should include powers to introduce by secondary legislation measures necessary to attain Government's objectives for salmon and freshwater fisheries.*

### **Accept**

The National Assembly for Wales agrees that future salmon and freshwater fisheries legislation should provide subordinate powers for the Assembly to conserve salmon and freshwater stocks in Wales.

## CHAPTER 6 : FISH HABITATS

### The General Approach

*137. All relevant legislation should incorporate an element of flexibility so that measures can be modified in response to changing climate.*

#### **Accept in principle**

The National Assembly for Wales accepts the need to take continuing account of the possible impact of climate change on all the Government policies and agrees that powers under new fisheries legislation to introduce secondary legislation should be broad enough to respond to changes caused by climate change. See also the response to recommendation 89 (page 3).

### Agriculture

#### Agricultural pollution

*139. All farmers should be required by law to prepare Farm Waste Management Plans.*

#### **Reject**

The National Assembly for Wales agrees that farm waste management plans have played a part in reducing pollution. However, the imposition of a statutory requirement to produce a farm waste management plan would place a significant regulatory burden on all farmers and would incur substantial enforcement costs. Of the 2,050 substantiated annual water pollution incidents in England and Wales caused by farming in 1998 only about 12% were recorded by Environment Agency as “land run-off”. The National Assembly for Wales supports the UK Government’s proposal to continue with the policy of encouraging the use by farmers of farm waste management plans combined with effective enforcement action.

*138. It should be made clear, by legislative changes if necessary, that sediment can be a polluting substance and that action resulting in the introduction of excessive amounts of sediment into watercourses comes within the scope of the offence of causing pollution.*

#### **Accept in principle**

Under existing legislation (S.85 Water Resources Act 1991) excessive soil and sediment run-off can be ‘noxious matter entering a controlled water’. It is for the Environment Agency to enforce this legislation, and the National Assembly for Wales agrees with the Environment Agency that enforcement action is only appropriate when excessive run-off is caused by bad land management by the person responsible for managing the land. Diffuse sediment run-off is best tackled through changes to farming practices, including measure to protect watercourses – e.g. buffer strips.

*140. Government and the Environment Agency should continue to fund research into the effects of pesticides and veterinary medicines on fish and invertebrates, including the sub-*

*lethal effects. The results of this research should be made known to the bodies responsible for licensing these substances and should be taken into account by those bodies in deciding on and reviewing approvals and conditions of use.*

*141. Research should be carried out into the natural recovery of, in particular, upland streams after pollution events and on the best ways to enhance this recovery.*

### **Accept both in principle**

The comments made in relation to recommendations 71 to 87 (pages 23-26) are relevant here. It is already best practice to make known the results of relevant research to the Veterinary Medicines and Pesticide Safety Directorates.

### Sheep dip pollution

*142. Government should support research into and the development of effective alternatives to synthetic pyrethroid (SP) sheep dips, such as injections and pour ons and should positively promote these. As soon as alternatives are available to control sheep scab, the Medical Veterinary Products licence for SPs as a sheep-dipping chemical should be withdrawn.*

### **Accept in part**

The National Assembly for Wales notes the Review Group's conclusion that it is impracticable to reduce the risk of serious environmental damage from SP sheep dips to an acceptable level. Whilst it accepts that the environmental hazard presented by SP dips is very substantial, it does not agree that it is not possible to reduce the risk that this hazard will occur to acceptable proportions.

The Government's Veterinary Products Committee (VPC) has considered incidents of pollution caused by sheep dips including synthetic pyrethroid (SP dips). In March 2000 the Environment Agency supplied the Veterinary Products Committee with evidence of pollution incidents attributed to the use of sheep dips in the context of considering the case to allow Organo Phosphate sheep dips to return to the market following the suspension of marketing authorisations in December 1999. In 1997, 34 incidents were reported of which 19 were definitely linked with the use of synthetic pyrethroid dips. In 1998, the total was 27 of which 18 were definitely linked to the use of synthetic pyrethroid dips with a further 3 incidents in which their use was suspected. Definitive figures for 1999 had not been produced but 9 incidents had definitely been identified and in all of them the use of SP dips was confirmed or suspected. Although these data are not decisive, there is some evidence of a reduction in the number of pollution incidents. It is clear from the reports that pollution occurred largely because dipping baths were located too close to watercourses or insufficient measures had been taken to prevent freshly dipped sheep from entering watercourses. If good practice guidelines are followed rigorously, it should be possible to avoid pollution incidents.

In addition, a number of measures have been put in place to improve practice among users and prevent contamination of the aquatic environment. One such standard is to ensure that all farmers proposing to dispose of sheep dip have obtained the required prior authorisation from the Environment Agency.

The Government has funded work since 1996 to explore non-chemical methods as alternative

approaches to sheep scab control. The programme is based on earlier published work funded by MAFF at the Royal Veterinary College. The earlier results showed evidence of an immune response in the blood of sheep affected by sheep scab mites. A four-year programme, costing £1.6m, investigated the significance of this. The results in 1999 showed that the approach to the immunological control of sheep scab is complex and requires an understanding of a number of key elements if a vaccine is to be developed. A further, three-year study focusing on these elements is in hand.

All authorised sheep dips must satisfy statutory criteria for safety (including the safety of the environment) and efficacy. The authorisation of other means of controlling sheep diseases would not change the status of existing authorised products, which would remain on the market unless there was convincing evidence that they had become ineffective or unsafe. In carrying out a risk benefit assessment of the use of a particular product or group of products, the Veterinary Products Committee takes account of the existence of alternative treatments and the possibility of misuse of the product. However, a decision to take a particular product off the market would have to be justified under Community legislation in relation to evidence of harm caused by the product under its conditions of use.

The National Assembly for Wales agree that the Government will continue to keep the situation under review, taking account in particular of the effectiveness of the measures that have been taken to protect the environment. In addition to the measures already taken, the Veterinary Products Committee (VPC) will be considering container design for synthetic pyrethroid sheep dips and the Veterinary Medicines Directorate will be requiring changes to the labelling of SP dips to bring them into line with current best practice.

*143. The Environment Agency's programme of sheep-dipping site inspections and guidance in best practice should be pursued with continued vigour, focusing particularly on upland sheep-farming areas where base-poor soils provide little or no natural buffering.*

**Environment Agency accepts**

The National Assembly for Wales notes that the Environment Agency intends to implement this recommendation. It already works with a range of organisations to pursue best practice.

*144. There should be a general presumption in favour of the disclosure by one Government agency to another of information, including information on individuals, needed to protect the environment and any legal restrictions on such disclosure should be removed.*

**Accept**

The National Assembly for Wales agrees in principle with this recommendation, and notes that the Freedom of Information Act 2000 removes some current constraints on the exchange of information between Government agencies. The Government will, of course, remain subject to rules protecting individuals in the European Convention on Human Rights and the Data Protection Act.

*145. The Environment Agency should make use of its powers to place closure orders on leaking or inappropriately sited sheep dipping installations.*

**Environment Agency accepts**

The National Assembly for Wales notes that the Environment Agency intends to implement this recommendation.

*146. Warnings on package labelling and in advisory leaflets about environmental risks from sheep dips should be prominently displayed in large, easily readable typeface.*

### **Accept**

The National Assembly for Wales agrees that sheep dip labels need to be revised to make them simpler, easier to read and to give prominence to warnings, including those relating to environment risks. Considerable progress in revising sheep dip labelling has been made and the Government expects to introduce new labelling requirements for SP dips in the New Year.

*147. The competence testing and certification scheme for purchasers of sheep dips should be extended to include all who use and dispose of sheep dips.*

### **Reject**

The National Assembly for Wales agrees that it is essential that all those dipping sheep should be fully trained and competent; this is already required by The Control of Pesticides (Amendment) Regulation 1997. However, the Government, having looked carefully into the issue, is not persuaded that mandatory certification of users would necessarily improve practice. The advice it has received from the Health and Safety Executive is that mandatory certification might lead those dipping sheep to believe that these certificates discharge them from their responsibility to work safely and carefully wherever they dip sheep. Also mandatory certification would not make it any easier to enforce existing regulations. The National Assembly for Wales agree that nevertheless, the Government should keep the situation under review.

*148. A licensing system for all mobile sheep dip and sheep spray operators should be introduced.*

### **Accept for further consideration**

*149. When effective neutralising agents become available, sheep dip should be packaged with sufficient neutraliser and it should be made illegal to purchase dip without its neutraliser. Labelling should state clearly and prominently that neutralised sheep dip can cause serious environmental damage and must be disposed of only in accordance with the relevant Code of Practice.*

### **Accept in part**

The National Assembly for Wales agrees that it essential that all used sheep dips, whether neutralised or not, are disposed of safely. Disposal of sheep dips is already strictly controlled by the Groundwater Regulations 1998, and it is important to ensure that all users are aware that these rules apply also to neutralised sheep dips. It will consider, with the Environment Agency, whether more needs to be done on this point. It notes the Environment Agency's view that more research on the effect of neutralised sheep dips on the environment is needed before consideration is given to making use of neutralisers mandatory.

*150. The procedure for approving and licensing of veterinary medicines should be revised to reflect the level of environmental risk in the conditions of storage, use and disposal that are likely to be observed in practice rather than those recommended by the manufacturer. If there is a significant risk that a product will be misused and so cause serious damage to the environment, it should not be licensed.*

### **Current practice**

The VPC already takes the possibility of misuse of a product into account in its authorisation process. It has, for example, rejected proposals where it has judged the recommended precautions to be such that a farmer could not be reasonably expected to follow them in practice.

### **Agriculture support policy**

*151. Government should seek to ensure that any direct payments made to farmers under a reformed CAP reflect their role in maintaining wildlife habitats in the countryside. Such payments should take into account the contribution farmers may make to the maintenance and improvement of salmon and freshwater fisheries.*

### **Accept in principle**

The National Assembly for Wales notes that this recommendation addresses the long-term reform of the CAP. Support for maintaining habitats and landscapes and measures to sustain the rural economy for part of the Welsh Objective 1 Single Programme Document.

The Review Group accepts that in the shorter term opportunities to shift from support for agricultural production towards support for maintaining habitats and landscapes and measures to sustain the rural economy are limited. The National Assembly for Wales agrees that such a shift would be consistent with the Government's own objectives for the reform of the CAP, and that in its view direct payments to farmers should, among other things, take into account the contributions farmers can make towards safeguarding and maintaining wildlife habitats, including rivers, streams and other wetlands

*152. Stricter rules on over-grazing by sheep, designed to prevent environmental damage to vulnerable hillsides, should be drawn up as soon as possible and enforced by cross-compliance.*

### **Accept in principle**

The National Assembly for Wales recognises that overgrazing by sheep can contribute to soil erosion in vulnerable upland areas and is committed to action to reduce its impact via the environmental enhancements under the new Tir Mynydd arrangements.

*153. The Government should press for all livestock subsidies to be paid on an area basis.*

### **Accept in part**

The National Assembly for Wales, in accordance with the Agenda 2000 reforms, has introduced Tir Mynydd, the new area based support scheme for livestock farmers in the Less Favoured Areas (LFA's) of Wales. From 2001 it has replaced the Hill Livestock Compensatory Allowances (HLCA's) Scheme which, for nearly 30 years, had channelled specific support to Hill and upland farmers on the basis of the number of eligible breeding cows and/ or breeding sheep they kept.

*154. Clear enforceable guidelines on cultivation of such crops as maize should be drawn up to make it clear that they should not be grown on highly erodible flood plains. Cross compliance should be used to ensure that these guidelines are observed.*

### **Accept in part**

The National Assembly for Wales agrees that the cultivation of some crops in highly erodible areas can cause problems. It is therefore fully supportive of educational initiatives, including advice on best practice, which seek to encourage the sympathetic management of land adjacent to watercourses. The revised Code of Good Agricultural Practice to Protect Soil emphasises the need to adopt management practices that avoid erosion. The Ministry of Agriculture, Fisheries and Food is also currently considering ideas for the promotion of a manual and leaflets on controlling soil erosion, including a new leaflet on wind erosion.

The Government and National Assembly for Wales are also seeking to protect watercourses against pollution by encouraging the responsible use of fertilisers and pesticides, on cultivated land and pasture through instruments such as the Code of Good Agricultural Practice for the Protection of Water and the Local Environment Risk Assessment for Pesticides (LERAPs). The National Assembly for Wales supports the use of existing legislation to protect water courses alongside cultivated land, such as the 1989 Water Act, the 1991 Water Resources Act and the Groundwater Regulations, where this is necessary in order to prevent environmental damage.

The National Assembly for Wales understands why the Review Group had a particular concern about maize cultivation and the conversion of riparian meadows out of grassland. It therefore welcomes the discussions between the Environment Agency and the Maize Growers Association to promote good practice, and will be discussing with the Environment Agency and other bodies what more needs to be done to comply with European Directives on water quality and habitat conservation.

The use of cross-compliance to enforce measures to reduce erosion is more difficult. Attaching additional conditions to, for example, the Arable Area Payments Scheme would need very careful consideration, having regard among other things to simplicity, ease of enforcement, and cost effectiveness. MAFF will keep the position under review.

As part of the Tir Gofal agri-environment scheme, annual payments are available for the conversion of improved grassland to arable crops. Project officers consult with the Environment Agency over any proposals involving the conversion of floodplain grassland to arable land.

## Agri-environment and rural development schemes

*155. Government should make greater use of the provision in the Rural Development Regulation permitting it to divert funds from direct support payments to farmers to pay for agri-environment measures.*

### **Accept in principle**

The National Assembly for Wales is a strong advocate of the second pillar of the reformed Common Agricultural Policy (the Rural Development Regulation). The Tir Gofal scheme offers support to farmers for the introduction of agri-environment measures.

*156. Government together with its agencies should promote co-ordinated measures to protect watercourses on as wide a scale as possible. In particular, Government should consider schemes to encourage fencing in livestock farming areas and uncultivated buffer strips in arable farming areas. Ideally, these schemes should be combined into single, national watercourse corridor schemes.*

### **Accept in principle**

The National Assembly for Wales agrees that protecting watercourses by means of buffer strips and fencing can make a major contribution to habitat improvement. The type of co-ordinated approach that the Review Group recommends can already be delivered through Tir Gofal, which can fund both buffer strips and fencing in order to enhance water quality within both streams and rivers. Priorities for funding under Tir Gofal are determined using an all Wales scoring system, within which the protection of watercourses receives a substantial weighting. Measures to protect watercourses are also aided in some river valley Environmentally Sensitive Areas (ESAs), Tir Cymen Habitat Schemes

*157. To encourage maximum uptake of schemes to protect watercourses, Government should seek revision of the rules for EU livestock and arable subsidy schemes so that strips of land intended to provide protection to rivers and streams are not deducted from areas used to calculate entitlements to subsidy payments.*

### **Accept in part**

The National Assembly for Wales supports the Government in its policy of seeking to maximise the environmental benefits of EC arable and livestock subsidy schemes consistent with their overarching objectives and rationale. To that end, it is worth recalling that the

Government was instrumental in securing changes to the Community rules which, from 2000, reduced from 20 to 10 metres the minimum allowable width of land eligible for set-aside payments where such land is situated alongside permanent watercourses or lakes. With a view to maximising the potential environmental gains, the Government continues to press the European Commission to reduce further the minimum allowable width. The Government, supported by the National Assembly for Wales, will also continue to resist any attempt by the Commission to impose an inflexible rule whereby arable area payments may only be claimed for the whole area of a field up to the Ordnance Survey boundary in cases where the uncropped margin is two metres or less in width.

*158. A scheme should be developed under the Rural Development Regulation to provide greater opportunities for the restoration of wetlands.*

### **Accept in principle**

The Tir Gofal Scheme already includes a number of annual payment options that can be used to restore or re-create wetlands including the raising of water levels on a wide variety of habitats, as well as the establishment of new reed beds and salt marshes. Additional one-off capital payments relevant to wetland conservation include those for pond creation and maintenance, installation of sluices, ditch-casting, pollarding and fencing.

*159. Government should recognise that the conservation and development of salmon and freshwater fisheries contribute to rural development and to protection and enhancement of the environment, and so should be regarded as legitimate subjects for all appropriate agri-environment and rural development schemes.*

### **Accept in principle**

The National Assembly for Wales fully recognises the contribution that salmon and freshwater fisheries can make to rural development and to protection and enhancement of the environment. A range of measures for habitat improvement that can enhance this contribution are already eligible for assistance under agri-environment schemes and the England Rural Development Programme.

## **Forestry**

*160. All authorisations relating to forestry, including approval of applications for grants, should be required to take full account of the impact of the proposed afforestation on fish habitats, on the aquatic environment and on fisheries. Where existing conifer forests line watercourses, trees should be removed to create buffer strips along streams.*

### **Accept in part**

Forestry schemes are not approved for grant aid by the Forestry Commission unless they comply with the provision of the *UK Forestry Standard* and the *Forest and Water Guidelines*. The *Standard* is a Government document that sets out the principles of sustainable forest management, including those related to the protection of water and aquatic habitats, and is a fundamental requirement of the commitment to sustainability incorporated into the Assembly's Wales' Woodland Strategy soon to be published. The *Forest and Water Guidelines* are a Forestry Commission document, developed by a working group that included the water

regulatory authorities and fisheries interests. They are currently being revised. Both documents deal extensively with the issues that concerned the Review Group and the Guidelines take full account of the impacts of afforestation on fish habitats, the aquatic environment and fisheries.

The few forestry schemes that do not seek grant aid are subject to an Environmental Impact Assessment carried out by the Forestry Commission. A scheme that did not comply with the Standard or Guidelines would be unlikely to be authorised.

The Guidelines address the question of tree coverage along watercourses and the effects of woody debris within streams. They state that extent of this should be determined by ecological, aesthetic and practical considerations, but trees must not shade out ground vegetation since this has a crucial role in trapping sediment. Trees with a dense canopy, such as beech, oak and many conifers, should be used sparingly. The Guidelines recommend that where the riparian zone has been planted with inappropriate species or too densely, the undesirable trees should be removed when a management opportunity arises. However, there may be sites, such as steep slopes or unstable banks, where tree removal would not be appropriate.

*161. Woody debris blocking or fringing streams should not be removed as a routine fisheries or flood defence measure. Any necessary flood defence work should aim to minimise adverse impacts on wildlife habitats.*

### **Environment Agency accepts in principle**

The Environment Agency, while agreeing with the principle underlying this recommendation, has pointed out that woody debris in many locations can cause risks of flooding if not removed. The National Assembly for Wales agrees with the Environment Agency's suggested approach. Namely that policy on the removal of woody debris should reflect policy on the reinstatement of wetlands (rec 168 page 14) so that woody debris would not be removed routinely where there is no associated risk from flooding to people or property.

## **Water Abstraction**

*162. There should be a requirement that, before any work is undertaken to restore a canal to navigational use, a full assessment of the impacts be conducted.*

### **Current practice**

Canal restorations are subject to normal planning rules; it is for the planning authority to assess the potential impacts of any proposal and determine whether a full environmental impact assessment is needed.

*163. Environmentally acceptable flow regimes for freshwater fish should be established for all rivers affected by abstraction. The needs of all fish, not only salmonids, should be taken into account when establishing abstraction regimes.*

### **Accept in principle**

The National Assembly for Wales agrees with the Environment Agency that the latter should

aim to set environmentally acceptable flow regions for freshwater fish, within the context of Catchment Abstraction Management Strategies (CAMS), in rivers affected by abstraction. The National Assembly for Wales notes, however, that there are significant practical difficulties in achieving this, and that progress will depend on advances in scientific understanding and the availability of resources.

*166. All major water users should be under a duty of care to use their abstractions and/or discharges for the benefit, wherever possible, of fisheries and the environment.*

### **Accept in principle**

Water companies are subject to the general environmental duties of section 3 of the Water Industry Act 1991. These include:

- a duty to exercise their powers so as to conserve flora, fauna and geographical or physiographical features of special interest, comply with water quality standards and to take into account any effect, and
- a requirement to take into account any effects that their proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects.

Among the factors which the Environment Agency must take into account in determining abstraction licence or discharge consent applications are the likely effects on flora and fauna, statutory environmental standards, the reasonable need for the water, its general duties on sustainability and conservation, and the impact on river and stream flows. The draft Water Bill published for consultation on 6 November 2000 proposes enhanced powers for the Environment Agency to require environmental reports in support of abstraction licence applications.

*165. It should be made unlawful to remove water from, or to fill in, a watercourse or a stillwater without taking reasonable steps to rescue or protect the fish.*

### **Accept in principle**

The National Assembly for Wales agrees in principle with this recommendation. The Government will prepare the necessary legislative provision when a suitable opportunity arises.

*167. The Environment Agency and other bodies should assess the effects on the environment of artificial movements of water, such as reservoir releases and water transfers between and across catchment boundaries. This assessment should take into account the potential effect of the movement on both the donor and the receiving water. Steps should be taken to mitigate adverse effects and halt water movements where the likelihood of serious environmental damage, such as the transfer of species or disease or disruption of migration, is unacceptably high.*

### **Accept in principle**

Most transfers of water and reservoir releases are authorised by abstraction and impounding licences granted by the Environment Agency and reservoir releases are managed in accordance with licence conditions set by the Environment Agency. Water transfers for navigation purposes are presently excluded from abstraction controls but the draft Water Bill published for consultation on 6 November would end that exemption where transfer to (but not within) the canal system are concerned. The Bill will also provide a specific power to ensure that abstraction and impounding licence applications to the Environment Agency can be required to be accompanied by such reports as may be prescribed. This may include, in situations where a full environmental impact assessment is not required, an environmental report that sets out the likely environmental impact of a proposed water transfer.

## **Land Drainage and Flood Defence**

*168. Environment Agency and Internal Drainage Board rural flood defence programmes should be reviewed to assess the scope for the relaxation of dredging and other drainage works and the consequent reinstatement of extensive wetland habitat in headwater catchments and river valleys where there is no associated risk from flooding to people or property.*

*169. The Environment Agency, conservation agencies and other interested organisations should develop collaborative catchment based wetland habitat conservation strategies to ensure that maximum use is made of suitable opportunities to restore wetland habitats and to enhance wildlife habitats generally.*

### **Accept both**

The National Assembly for Wales agrees that, where appropriate, the reinstatement of wetland habitats would provide important environmental benefits, and that there is a need for better co-ordination between the responsible statutory bodies to maintain and enhance wetland management. We are looking to the Environment Agency, in collaboration, in particular, with the statutory conservation agencies, to develop management plans for wetlands (including their reinstatement) as part of its integrated catchment management approach. To assist this process we are willing to consider proposals from the Environment Agency for projects that advance a mixture of objectives so that environmental protection and other objectives can be combined in single projects.

Environmental sensitivity is an integral part of the Government's policy for flood and coastal defence. When developing potential schemes, the Environment Agency and other operating authorities are encouraged to take in environmental considerations; this will help to identify opportunities for environmental enhancement while avoiding damage to the environment.

Grant aid provided by MAFF and the Assembly assists in meeting the costs of such schemes.

*170. The Environment Agency should take the lead in drawing up a co-ordinated programme of river and river corridor habitat restoration, involving other government agencies and interested parties. The programme should draw on a range of funding sources, both public and private.*

### **Accept in principle**

In the National Assembly for Wales view river and river corridor habitat restoration to remedy historic damage to physical habitats should form part of the Environment Agency's integrated catchment approach. Where habitat restoration is undertaken as part of a programme of work under this approach the Environment Agency should take the lead in co-ordinating funding from other sources. In other circumstances, it may be more appropriate, given the limits on the Environment Agency's resources, for other agencies or for bodies such as river trusts to take the lead. We agree that funding for such programmes will need to be drawn from a range of sources. Comments on recommendations 168 and 169 (see page 14) are relevant here.

## **Industrial and domestic pollution**

*171. Government should adopt Statutory Water Quality Objectives for all major watercourses as soon as practicable. However, in order to be effective the monitoring programme must be reliable, rigorously and consistently applied and be capable of detecting episodic events.*

### **Reject**

The National Assembly for Wales does not consider that the formal adoption of Statutory Water Quality Objectives is necessary, beyond those already set in order to comply with EU requirements. In 1997 non-statutory River Quality Objectives were set for 45,000 kilometres of river in England and Wales; these are identical technically to Statutory Water Quality Objectives. The Government is keeping the position under review; a particular problem arises over failures to meet quality objectives that are not due to measurable pollution.

*172. Further research should be conducted as a matter of urgency into the prevalence and impact of endocrine disrupting substances in the freshwater environment.*

### **Accept**

This is an area of high priority. The comments made in relation to recommendations 71 to 87 (see pages 23-26) are relevant here.

## **Development**

*173. There should be a presumption against development where there is a risk of an adverse impact on a watercourse. Statutory planning guidance should require planning authorities to undertake a full assessment of the impact on the aquatic environment and on fisheries of any application for planning consent to which the Environment Agency has objected and should only grant consent to such applications in exceptional circumstances.*

## **Accept in principle**

The National Assembly for Wales does not accept that a presumption against development is necessary. The Town and Country Planning Act 1990 already requires consideration of the environmental implications of developments subject to planning control, with formal environmental impact assessments where appropriate. Guidance on consideration of flood risk is contained in DOE Circular 30/92, which supports other guidance on impacts on the environment and biodiversity.

In Wales, existing guidance on development and flood risk is given in a technical advice note, TAN (W) 15. This advice note is currently under review and publication of a revised Technical Advice Note is expected later this year.

## CHAPTER 7: PREDATION

### **Piscivorous Birds**

*174. The power to licence the killing of cormorants by shooting should be retained. Licences should be issued to authorise shooting to kill as part of a pre-determined programme of scaring which should be site specific and time limited. Licence provisions should include an upper limit on the number of birds that can be killed during the period of the licence.*

**Accept**

The Assembly's licensing scheme for the scaring or destruction of piscivorous birds is working effectively with no significant delays in determining applications. The recommendation is in line with current licensing procedures and is consistent with obligations under Article 9 of the EC Wild Birds Directive 79/409/EC.

*175. The power to licence the killing of piscivorous birds other than cormorants should be retained. Licences should be site specific and time related and should include an upper limit on the numbers of birds that can be killed during the period of the licence.*

**Accept**

The National Assembly for Wales agrees that where there is no other satisfactory solution, the current facility to licence the killing of piscivorous birds should be retained. Any licence issued would be site specific, time limited and include an upper limit on the numbers that can be shot.

*176. Section 4 of the Wildlife & Countryside Act 1981 should be amended to provide that the defence of killing a bird to prevent serious damage to fisheries should be qualified so that the defence is not available if the likelihood of a need to kill was known in advance of the action and no licence had been applied for or the licence had been determined.*

**Accept**

This provision is contained within Section 4 of the Wildlife and Countryside Act 1981.

*177. Authorities licensing the killing of birds under Section 16 of the Wildlife and Countryside Act should issue clear guidance on the sort of evidence that will be required to demonstrate serious damage to fisheries. This guidance should take account of the practical difficulties involved in obtaining the necessary data.*

**Accept**

*178. Administrative procedures for deciding licence applications to kill birds by shooting should be changed so that an application can be lodged without the supporting evidence of serious damage.*

### **Reject**

As indicated in the response to recommendation 177 (see previous page), the licensing procedures are dependent upon evidence of, or the need to prevent serious damage. Altering the procedures to allow licence applications to be submitted before such evidence is available could lead to initial processing and determination of a large number of applications, which were not subsequently followed through. This would be counterproductive as it would divert resources currently devoted to considering full applications. The guidance material issued should address any concerns over possible delays in processing applications.

*179. Licensing authorities should devise a more streamlined, precautionary approach to deal with applications for repeat licences, which takes account of the effectiveness of the previous scaring programme and the number of birds on the site at the time of the application.*

### **Reject**

Determination of all applications, including those for repeat licences, is dependent upon consideration of a number of variable factors. This means that each application must be considered carefully and on a case by case basis. Nevertheless, we are keen to keep procedures under review to ensure all applications are processed as efficiently and effectively as possible and with minimum delay.

*180. The nature conservation agencies and the present licensing authorities should collaborate to formulate criteria for issuing licences and ensure that these are reflected in the guidance referred to in recommendation 178 (see above). These criteria should be based on the best available scientific evidence and should be reviewed regularly. The Environment Agency and fishery representatives should contribute to the development and review of these criteria.*

### **Accept**

Guidance is given to applicants as part of the application process.

*181. The criteria for issuing licences should require the licensing authority to consider the likely effectiveness of other means of dealing with the problem of piscivorous birds, taking account of the research findings but there should be no blanket requirement for an applicant to demonstrate that these have been used prior to making a licence application.*

### **Accept in part**

The EC Wild Birds Directive states that a licence to kill a protected bird cannot be issued unless there is no other satisfactory solution. Therefore, although the National Assembly for Wales accepts that there should not be a blanket requirement for an applicant to demonstrate that all possible non-lethal methods have been used, a fishery owner should try those applicable to his individual circumstances.

*182. The Wildlife & Countryside Act should be amended to permit the issue of licences to kill birds for the purposes of conserving non-avian wildlife.*

**Accept**

Section 16 of the Wildlife and Countryside Act 1981 already contains a provision allowing a licence to be issued to control birds for the conservation of wild fauna and flora.

*183. Where the population of a fish species is so low that there is a need to prohibit fishing, or where the conservation status of the fish species so demands, this should be considered a prima facie case for trying to prevent exploitation by predation as well. In such circumstances, it should not be necessary to demonstrate a direct impact of predation. The risk of a further decline in the fish population level should be sufficient to invoke the precautionary approach in favour of the fish.*

**Accept in part**

As indicated in the response to recommendations 179 and 181 (see previous page), all cases must be considered on merit. It is also important to note that even when applying the precautionary approach there will be a need to demonstrate risk to the conservation status of the target fish population. On its own, the threat of predation will not be sufficient justification to issue a licence.

*184. Further research should be undertaken on management measures other than shooting to deal with the problem of piscivorous birds, including, in particular, more extensive trials of the effectiveness of habitat modifications such as fish refuges, and their effects on angling.*

**Accept**

We and MAFF are continuing to sponsor relevant research on an England and Wales basis including a project on the potential use of fish refuges, and the results will be used in determining overall policy on piscivorous birds.

*185. Where appropriate, future fisheries research and monitoring programmes should include consideration of the effects of predation by piscivorous birds.*

**Accept**

Where appropriate, the effects of predation by piscivorous birds will be considered in future MAFF and Environment Agency fisheries research and monitoring programmes on an England and Wales basis.

## **Piscivorous mammals**

*186. The present legal controls over the shooting of seals should be retained but the provisions regarding the rifles and shotguns that can be used should be revised to ensure that target animals are killed instantly.*

### **Accept in part**

The Protection of Seals Order 1999, which came into force in December 1999, extended the close season for seals. Provisions regarding the calibre of rifles and shotguns that can be used to shoot seals will need to be discussed with the Home Office before they can be considered for inclusion in any future review of the relevant legislation.

*187. Research is required to investigate the potential effects of reintroduced populations of otters in areas where the native fish populations are under particular pressure. Any programme designed to encourage the re-establishment of otters should take account of the impact of the resulting predation on vulnerable fish stocks.*

### **Accept in principle.**

The UK Biodiversity Action Plan Steering Group agreed in 1999 that no further releases of captive-bred otters were appropriate in the UK and also identified the need for control over release of otters into the wild. The Assembly's statutory advisor on nature conservation, the Countryside Council for Wales, is a member of this steering group.

## CHAPTER 8: MONITORING AND R&D

The references to MAFF in this Section refer to its activities on an England and Wales basis.

### **Organisation of Monitoring and Research**

63. *Policies on the conservation of salmon and freshwater fish and the management of salmon and freshwater fisheries should continue to be based upon the best available scientific information.*

#### **Accept**

The National Assembly for Wales welcomes this recommendation, which endorses its current approach. Existing MAFF and Environment Agency R&D programmes are intended to provide sound scientific information on which conservation and fisheries management policies can be based.

64. *MAFF, the Environment Agency, NERC and other funding agencies should continue to give high priority and long term commitment to the funding of R&D on the freshwater environment and fisheries and should ensure that adequate funding is available to conduct research and implement the findings.*

#### **Accept in principle**

While the Government will continue to give high priority to research on the freshwater environment and fisheries, the level of resources devoted to this research will need to take account of other important research priorities. MAFF has recently invited comments on its R&D strategy that sets out its overall priorities for R&D.

65. *Those responsible for research and monitoring by government departments, the Environment Agency, the nature conservation agencies and NERC should ensure good co-ordination of all research programmes which have a bearing on the management of fisheries and the freshwater environment. Where possible databases should be linked and access provided for key partners.*

#### **Accept**

As the Review acknowledges, co-ordination on freshwater fisheries research between MAFF and the Environment Agency is already good, with regular meetings between scientists and policy customers. In addition, there have been two major reviews of Government funded research on salmon and freshwater fisheries in the last ten years, involving the relevant departments in Scotland and Northern Ireland as well as MAFF and the Environment Agency. The Government will consider whether more needs to be done, and in particular, whether the nature conservation agencies and NERC need to be more involved in the co-ordination process.

66. *Research proposals should be evaluated on the basis of benefit in relation to cost, rather than cost alone.*

### **Comment**

This is the existing policy. The Environment Agency keeps its evaluation procedures under review as part of their auditing process.

67. *The Agency should establish a panel to audit its R&D and monitoring; the panel should include some independent members.*

### **Comment**

The Environment Agency already audits its R&D monitoring with the assistance of independent scientists.

## **Monitoring programmes**

68. *The Environment Agency should ensure good co-ordination of fisheries monitoring programmes with other Environment Agency monitoring and harmonisation of the programmes with those of English Nature and the Countryside Council for Wales.*

### **Comment**

The Environment Agency liaises closely with the other environmental agencies to ensure harmonisation of fish monitoring projects.

69. *The Environment Agency should adopt a structured approach to the design of its monitoring programme so that it is both modernised and better targeted, and information should be produced in such a manner as to be effective in meeting the future fisheries management needs of the Agency and others.*

70. *The revised fisheries monitoring programme that is being developed by the Environment Agency should be linked with monitoring for other components of the aquatic environment (for example invertebrates and habitat). Research is required to provide more cost-effective methods for monitoring fish populations.*

## **Environment Agency accepts both**

As the Review acknowledges, the Environment Agency is in the process of restructuring its fisheries monitoring activities. It is intended that the revised monitoring programme will be in accordance with these recommendations.

## **R&D programmes**

**Recommendations 71 to 87** (see pages 23-26) address a range of specific research priorities. MAFF and the Environment Agency will take these recommendations into account in their future research programmes and in commissioning individual research projects within these programmes, although the extent to which individual recommendations are taken forward will depend upon the availability of resources and decisions on priorities. On this basis and with the support of the National Assembly for Wales, the Government and the Environment Agency **accept** all these recommendations. Specific comments on individual recommendations are set out below.

*71. There is a need to develop and improve methods to assess the socio-economic values of all recreational activities that are dependent upon the freshwater environment, and to investigate the impacts of all recreational activities on fish and the environment.*

The Environment Agency has this in hand by reviewing its methods for assessing these issues.

*72. Research to identify the conservation value of individual rivers should be extended to cover all major catchments and should not be confined to those that are known to contain species and habitats of relevance to the EC Habitats Directive. Future research should be based upon an holistic view of environmental and fisheries management.*

While the National Assembly for Wales and Government agree that this research should not be confined to work needed for implementation of the Habitats Directive, funding constraints make it necessary to set priorities. The Environment Agency will work closely with the nature conservation agencies on this.

*73. Research should be conducted into the possible effects of climate change on salmonids and freshwater fish, but this should not be conducted in isolation from similar studies on other aspects of the freshwater environment.*

MAFF and the Environment Agency have recently set up programmes of work to investigate the possible effects of climate change on freshwater fish and migratory salmonids. The Environment Agency will concentrate upon the potential effects in freshwater while MAFF will extend its work on the distribution of salmon in the sea to include the effects of climate change. It is recognised that the effects of climate change on freshwater ecosystems should be extensive and that this work must not be undertaken in isolation. Steps have been taken to ensure co-ordination with other researchers working on climate change.

*164. Research should be carried out to determine acceptable flow regimes and the needs of freshwater flora and fauna.*

Environment Agency has proposals for such research under their R&D programme for 2001. Research is jointly funded on an England and Wales basis and a final decision on the content of the programme is awaited.

*74. There is a continuing need for studies of the wide range of factors that affect fish stocks in freshwater and of methods to reverse adverse effects, in particular historic damage.*

Both MAFF and the Environment Agency already fund a range of studies on factors that affect fish stocks in freshwater and are planning to fund new programmes in this area. Available

funding is limited and so the new programmes will in the short-term focus on the question of sedimentation. The Environment Agency's programme will concentrate on the extent of sedimentation problems in England and Wales, while MAFF's programme will explore modelling of sediment dynamics within catchments.

*75. MAFF and the Environment Agency should continue to conduct research on fish diseases, their identification, distribution and effects on wild stocks.*

Environment Agency currently has research ongoing on crayfish plague and Section 30 consents. (Section 30 of the Salmon and Freshwater Fisheries Act, 1975 requires that any person introducing fish or spawn fish into an inland water obtains the prior written consent of the Environment Agency).

## Salmonids

*76. The Environment Agency and MAFF should continue to fund research to develop and refine the methods used to set conservation limits and management targets for salmon stocks, in co-operation with the International Council for Exploration of the Seas (ICES) and North Atlantic Salmon Conservation Organisation (NASCO), and for sea trout.*

This is primarily for the Environment Agency, which regards it as a high priority. However, both MAFF and Environment Agency scientists are co-operating in a current EU funded Concerted Action programme on the development of conservation limits for salmon.

*77. Further work should be undertaken to update and develop methods for monitoring and assessing salmonid stocks, and the regulatory and management authorities should ensure the best co-operative use of resources in this area. There should be further long-term studies of the population dynamics of individual river stocks of salmon and sea trout as a basis for improved stock management on different river types.*

As noted in response to Recommendation 70 (see page 22), the Environment Agency is restructuring their monitoring programme. MAFF and Agency scientists are also collaborating in a long-term monitoring study of the River Dee salmon and sea trout stocks, and the River Tamar is being evaluated as an additional monitored site. A collaborative project, involving MAFF, the Scottish Executive, the Northern Ireland Executive and the Environment Agency is developing applications and validating methods for hydro acoustic fish counters. The project aims to maximise the operational value of hydro acoustics for enumerating adult salmonid migration in the UK and to encourage the controlled uptake of the technique. It sets out to evaluate fully and test the application of hydro acoustic technology in a variety of river types. As part of this collaborative hydroacoustic study a new counter system based upon image analysis techniques is being developed.

*78. Research is required on the impacts of human activities on salmonid stocks and the effectiveness of a wide range of habitat restoration methods. The results of the studies must be readily available to all interested parties.*

As is indicated under Recommendation 74 (see page 23), research is underway on the impacts of human activities on salmonid stocks, including the effects of low concentrations of pesticides and problems caused by sedimentation. The Environment Agency has also developed guidance on habitat restoration.

79. *Research is required on the behaviour and distribution of salmonids in the sea and the factors impinging on them. There is a need to establish whether by-catches may be occurring in pelagic fisheries particularly in the Norwegian Sea, and the necessary research should be undertaken in co-operation with other countries and bodies as soon as possible.*

MAFF is funding studies on the behaviour and distribution of salmon in the sea and MAFF scientists are collaborating in a NASCO initiative to develop a collaborative international programme of research on factors affecting the survival of salmon in the sea.

80. *Research should be conducted on sea trout to provide a sound understanding of their ecology and, in particular, of their relationship with salmon.*

MAFF and Agency scientists continue to participate in discussions on sea trout at both national and international levels. The Environment Agency undertakes research into stock characteristics of some 16 rivers in England and Wales and MAFF has successfully completed a research programme looking at the diet and parasite infestations of sea trout in the sea and also investigating the migratory behaviour of sea trout and their habitat requirements. The need to continue to improve collection and dissemination of European sea trout results had been addressed in part by an ICES Study Group on sea trout (on which both MAFF and the Environment Agency are represented) but this remains a priority area for future funding.

81. *Wild brown trout and grayling fisheries should be supported by habitat management and research which underpins our understanding of their long-term sustainability.*

It is recognised that knowledge is lacking on distribution of non-migratory trout and their fisheries in England and Wales. The Environment Agency will be placing increased emphasis on monitoring non-migratory trout stocks as a result of its monitoring review but additional information is required on such factors as stocking and interactions with salmon. The Environment Agency is preparing a strategy for both trout and grayling fisheries for consultation in autumn 2001.

## Coarse fish and eels

82. *There is a need to increase the research programmes on coarse fish communities in different habitats. Future research should be based upon an holistic view of environmental and fisheries management.*

83. *Fundamental research is required on all the coarse fish species in England and Wales, their habitat requirements, behaviour and population dynamics. Research is also required on the relationships between fish species within communities and on the factors causing species composition to change over time.*

Both these recommendations are primarily for the Environment Agency, which regards coarse fish research as a high priority. Some research is already underway which addresses these issues. However, fundamental long-term research will be needed to understand relationships within fish communities.

84. *Research is required on the effects of angling practices, such as ground baiting, on fish and freshwater ecosystems.*

A number of those commenting on the Review questioned this recommendation, arguing that it was highly unlikely that practices such as ground baiting or adding colourants to bait had an adverse impact on the environment. While this may be the case, in the Government's view it would be better to proceed on this issue, as on others, on the basis of the best available scientific information and so conduct any research needed to acquire this.

*85. Research on eels should be continued in particular to elucidate the population dynamics of the species and to improve the monitoring of eel stocks. This work should be integrated with studies on eels in other European countries.*

A collaborative MAFF/Environment Agency R&D project on an eel population assessment in England and Wales has recently been completed and MAFF and the Environment Agency are currently considering a follow-on project.

*86. Research is needed to establish the distribution of rare and non-target fish species, describe their ecology and investigate factors that may be limiting the size of stocks, such as the effect of obstructions.*

There is little or no information available on the distribution of such species in English and Welsh waters. As this is an issue that is of particular interest to the nature conservation agencies the Government will discuss with them and the Environment Agency how the necessary research can best be funded.

*87. The Government should carry out research on the potential effects of various non-indigenous species on native fish and ecosystems.*

## **Accept**

The introduction of non-native species into Wales is strictly controlled under the Import of Live Fish Act 1980. The legislation is regularly reviewed to include any new species which may be considered to be injurious to native species.

## CHAPTER 9: SOCIAL, ECONOMIC AND RECREATIONAL IMPORTANCE OF ANGLING

### **Economic benefit of angling/tourism**

*188. The contribution that salmon and freshwater fisheries can make to local economies, particularly in remote areas, should be recognised in the development and implementation of all Government policies.*

#### **Accept in principle**

The Assembly commissioned the Study into Inland and Sea Fisheries in Wales by the Nautilus Consultants, (Nautilus Study) which fully recognises the economic impact of salmon and freshwater fisheries. This report will be taken into account when the Assembly brings forward any new fisheries policies.

*189. The Rural Development Plans for England and Wales should recognise the potential of fisheries to improve rural economies. In Cornwall and in West Wales and The Valleys an Objective 1 scheme should be introduced to encourage angling tourism through the improvement of fisheries and the development of angling opportunities in urban and rural areas. Similar schemes should be introduced, where appropriate, in Objective 2 areas.*

#### **Accept in principle**

The Welsh Objective 1 and non-objective 1 Single Programme Documents provided for grants to encourage Welsh tourism, including angling related tourism.

*190. The Government, through its agencies, should extend its research into the socio-economic aspects of salmon and freshwater fisheries in order to determine the contribution that these fisheries make to employment in England and Wales and their potential for creating further sustainable jobs through suitably targeted fisheries improvement and development work.*

#### **Accept**

The National Assembly for Wales has just completed its consideration of the Nautilus Study into the potential for fisheries in Wales. The proposed response to the report was presented to the Agriculture and Rural Affairs Committee of the Assembly on 16 May 2001.

*191. Tourist Boards and the Environment Agency should develop and promote best-practice guidance for the collection of data on visiting anglers.*

#### **Accept**

Once the Assembly has considered the recommendations contained in the Nautilus Study further discussions will be held with the appropriate agencies to agree a way forward including identifying any statistical data which may be required.

### **Social and recreational benefits of angling**

9. *The promotion of angling, and in particular opportunities for angling, should be an integral part of the Environment Agency's function in relation to salmon and freshwater fisheries, and funded accordingly.*

**Accept**

10. *The Environment Agency should expand its efforts to develop fisheries and promote angling in urban areas, to improve access to angling for the disabled and to promote angling among young people. Government should provide additional funding for these purposes.*

11. *Instructor rod licences should be introduced to enable beginners to fish without having to hold an individual rod licence, and the minimum age at which a rod licence is required should be raised to 16.*

**Accept both in part**

The National Assembly for Wales endorses the concept of promoting angling opportunities and sees merit in enabling beginners, under instruction, to fish without having to have an individual licence. These recommendations however, should apply equally to urban and rural areas.

**The development of angling**

22. *We would encourage anglers and angling organisations in England and Wales to establish an anglers consultative forum to give advice to the Environment Agency and Government on the development of policies concerning angling.*

This recommendation is addressed to anglers and angling organisations, not to the National Assembly for Wales or the Government. The specific comments that were received on it were almost evenly balanced between those in favour and those opposed.

23. *The Sports Councils in England and Wales should provide greater financial support for the encouragement of angling and the promotion of angling excellence.*

**Accept in principle**

This will be a matter for further consideration by the Sports Council for Wales given their other financial priorities.

## **Angling and other recreational activities**

*192. The Government should not legislate for unrestricted public access to land along watercourses or onto the water itself. If Government decides that there are circumstances in which it might wish to improve public access to such land and water this should be considered locally on a case by case basis and there should be full consultation with all those who have legal rights.*

### **Consider**

These issues are covered by the Rights of Way Act 2000, the provisions of which came into operation in February 2001.

## CHAPTER 10: THE REGULATION OF FISHING

### **Unlawful fishing methods**

96. *New fisheries legislation should prohibit the use of any instrument or device other than rod and line for the taking of any fish in freshwater unless its use is authorised by the Environment Agency. Licensing would be a form of authorisation. It should also be an offence to possess any unauthorised instrument or device with the intention of using it to take fish.*

#### **Accept**

The National Assembly for Wales agrees that the changes proposed here would simplify existing legislative provisions and make the law easier to enforce and so more effective. We will discuss with the Environment Agency and MAFF whether such changes require primary legislation or whether they can be introduced by way of Environment Agency byelaws.

97. *It should no longer be illegal to use roe, other than that of any salmonid fish, as a bait, but the use, sale, purchase or possession of the roe of any salmonid fish for the purpose of taking salmon, trout or freshwater fish should be prohibited.*

#### **Reject**

There was strong support among those commenting on the Review for maintaining the prohibition on the use of roe from salmonids for bait, and a considerable number also opposed any relaxation of the present ban on the use of other types of roe. Such a relaxation was not supported by the Environment Agency, which was concerned that use of roe as bait could contribute to the spread of disease and that distinguishing between salmonid and other roe would cause enforcement problems. We will keep the situation under review, but at present we see no need to change the existing rules.

98. *The current protection for salmon parr, salmon and sea trout smolts, gravid salmon and sea trout, and salmon and sea trout kelts should be retained. Any measures needed to protect undersized and gravid fish of other species should be implemented through byelaws.*

#### **Accept**

### **Close seasons for angling**

99. *The present statutory provisions on close seasons should be replaced by a power to impose close seasons either by Order or by byelaw.*

24. *The power to impose a close season for angling should be exercised where evidence shows that there are serious risks of damage to fish stocks, which can be addressed by this means.*

100. *If any powers are considered necessary to control access to freshwater habitats for conservation purposes they should be contained in general environmental legislation.*

25. *Byelaws should be introduced to abolish the close season for coarse fish on canals and rivers except where its retention is necessary to avert serious risk of damage to fish stocks.*

**Accept**

## **Coarse fish**

26. *There should be a framework of common rules on angling for coarse fish in England and Wales, implemented by means of byelaws. These need to be straightforward and enforceable, and if necessary they should be complemented by Codes of Practice, agreed with the relevant angling organisations. Local byelaws should be used to deal with local problems.*

**Accept**

The National Assembly for Wales agrees that while there is a continuing need for byelaws regulating angling, non-statutory Codes of Practice, agreed with angling organisations and enforced by fisheries' owners and managers, also have an important role to play. It is principally for the Environment Agency, in consultation with its advisory committees, angling organisations and anglers, to determine the best balance between byelaws and voluntary rules incorporated into Codes of Practice. 'Golden Rules' – a Code of Practice concerning fishing tackle and wildlife, developed in collaboration with angling organisations – has already been circulated to about 1 million rod licence holders by the Environment Agency.

## **Eels**

28. *Measures to reduce exploitation of eels at all stages in their life cycle and to develop a stock recovery plan as part of a wider European Management Programme should be pursued urgently as a matter of priority.*

**Accept**

We, the other UK fisheries departments and Ireland have already put proposals to the European Commission for a European Eel Stock Management Plan; this includes proposals to reduce exploitation where the number of silver eels returning to sea is inadequate. We are also considering, with the Environment Agency, other measures to reduce exploitation of eels at other stages in their life cycle.

101. *In future legislation, eels should be treated in the same way as other fish except where special provisions are needed.*

**Accept**

102. *In future freshwater fisheries legislation the word "eel" should be restricted to the genus *Anguilla* and the Environment Agency should regulate fishing for eels in all waters within its jurisdiction.*

**Accept**

103. *New legislation should contain the necessary powers to limit numbers of eel nets, traps and other devices used for catching eels in specified areas.*

## **Accept**

29. *The Environment Agency should consider as a matter of urgency ways of improving information on catches of eels and elvers.*

## **Accept**

The Environment Agency has submitted a byelaw for confirmation requiring all those holding eel net licences to submit annual catch returns. Taking this recommendation into account, the Minister has decided to confirm this byelaw.

104. *Government should explore the practicalities of introducing a legal requirement for all sales of eels and elvers to be made to licensed dealers and, if such a requirement is feasible, introduce the necessary legislation.*

## **Accept in part**

The National Assembly for Wales agrees that the Government, in consultation with the Environment Agency and interested parties, should examine the practicalities, costs and benefits of introducing such a requirement.

30. *A ban on fishing for elvers, other than in rivers and estuaries where it is currently practised, should be introduced as rapidly as possible.*

31. *Consideration should be given to imposing minimum and maximum size limits for eels taken and retained in net and trap fisheries.*

## **Accept in principle**

The National Assembly for Wales notes that the Environment Agency is currently consulting on proposals to prevent further expansion of elver fisheries and to require minimum mesh size to reduce catches of small eels. It agrees with the Government and Agency that further research would be needed to determine an appropriate maximum size limit.

32. *The Environment Agency should review all the factors likely to lead to by-catches in eel net and trap fisheries of other fish, with a view to providing consistent guidance on how by-catches can be reduced to the minimum. This should then be used to develop rules on the design of fyke nets, and the locations in which they are used, that can be enforced through byelaws and conditions on net licences.*

## **Accept in principle**

The Environment Agency is currently consulting interested parties on a proposal for a national byelaw requiring any by-catch to be returned. The National Assembly for Wales agrees that such a requirement will help address the problem of by-catches, and it looks to the Environment Agency to supplement this with appropriate guidance. It notes, however, that under current legislation it is not possible to include conditions in eel net licences.

## **Determining an acceptable level of exploitation for salmon**

34. *Conservation limits for salmon should continue to be used to define thresholds below which the number of spawning salmon in each river should not be permitted to fall. To be acceptable, conservation limits must be realistic and credible and should be subject to continued review and development and be updated as necessary. The Environment Agency should provide estimates of the higher target stock sizes it will aim to achieve in order to ensure that conservation limits are met four years out of five, and should consider developing further lower limits below which no exploitation would be permitted.*

35. *When and where appropriate, the Environment Agency should develop and apply separate conservation limits for one-sea-winter (grilse) and multi-sea-winter salmon.*

36. *When the Environment Agency publishes the conservation limits for each river it should explain the sources of data and the calculation of those limits to encourage local ownership of resulting management strategies.*

37. *Salmon Action Plans should set out the procedures to be followed if stocks in a particular river do not exceed their conservation limits. Local interests should be fully consulted and their views taken into account, before the procedures are finally established.*

#### **Accept all four**

Conservation limits defining minimum thresholds for numbers of spawning salmon are a central element of our policy on salmon conservation in England and Wales. The Assembly and MAFF has directed the Environment Agency, under Section 40 of the Environment Act 1995, to set conservation limits on all main salmon rivers. The Assembly is pleased that the Review Group fully endorses this approach. It agrees with the Group's recommendations on the development, implementation and presentation of conservation limits and that separate conservation limits should be set for one-sea-winter and multi-sea-winter salmon where and when it is practical to do so.

38. *Steps should be taken to improve the quality and reliability of data collected for salmon management.*

#### **Accept in principle**

The National Assembly for Wales acknowledges the comments in the Review on the importance of reliable, consistent and compatible data and on the need to collect and apply such data carefully. It endorses the Review Group's specific suggestions for improving the range and quality of data collected, but notes that implementation of these will be dependent on the resources available to the Environment Agency and decisions on priorities.

## **Mixed stock fisheries**

39. *The phase out of mixed stock salmon net fisheries in England and Wales should be accelerated, and to achieve this compensation should be offered to netsmen to encourage them to leave these fisheries on a voluntary basis as soon as possible.*

40. *The Government should provide substantial pump-priming funds to launch compensation arrangements designed to accelerate the phase out of mixed stock salmon net fisheries on a voluntary basis, and should take the lead in setting up these arrangements.*

### **Accept in principle**

The National Assembly for Wales supports the principle of phasing out mixed-stock fisheries. However there are no operational mixed stock fisheries in Wales and therefore these recommendations do not affect the livelihood or heritage values associated with existing net fisheries. Before taking a view on any future proposals from the Environment Agency for changes to net fishing practices the Assembly will consult with all interested parties.

41. *The Government should continue to press the Irish government, by all available means, to take all practicable measures to reduce the impact of the Irish drift net fishery on English and Welsh salmon stocks.*

42. *The Government should continue to do its best to ensure that NASCO sets quotas for the West Greenland and Faroe Islands salmon fisheries at the lowest achievable level.*

### **Accept Both**

The National Assembly for Wales is concerned at the impact, on Welsh fisheries, of mixed stock fisheries off Ireland and the high seas, and will become directly involved in discussions with the Irish Government and NASCO about measures to reduce the impact.

## **Regulating exploitation of salmon**

105. *Powers to introduce Net Limitation Orders should be removed; in their place the Environment Agency should have the power to limit net licence numbers through byelaws. These powers should specifically provide for licence numbers in a net fishery to be reduced immediately where this is necessary for conservation purposes. Byelaws limiting numbers of net licences should remain in force for not more than ten years, with the exception of those relating to the phase-out of mixed stock fisheries.*

### **Accept in part**

The National Assembly for Wales agrees that under future legislation byelaws should be used to limit numbers of salmon and sea trout net licences, and that such byelaws should be able to reduce licence numbers immediately where this is necessary for conservation purposes. It is not convinced, however, that byelaws limiting net numbers should only apply for 10 years, provided that they contain provisions for regular review. Any proposals for change will be subject to public consultation

106. *Powers should be retained to select applicants to whom salmon net licences will be issued when numbers of applicants exceed the number of net licences available. Local interests should be fully involved in establishing the selection criteria, which should be transparent. Where appropriate full-time fishermen should be given priority.*

107. *The powers to introduce close seasons and close times for salmon net fisheries should be retained and these powers should continue to be used to control levels of exploitation.*

108. *Powers should be available to the Environment Agency to impose restrictions on the design and use of nets, with the details left to the relevant byelaws.*

109. *Powers to introduce restrictions on angling methods and areas where angling is permitted should be retained in future legislation.*

**Accept**

110. *No compensation should be paid to owners or occupiers of fisheries, or other interested parties, for the effects of measures adopted for conservation purposes. Section 212 of the Water Resources Act 1991 should be repealed.*

**Accept**

A number of those who commented on the Review opposed this recommendation. The National Assembly for Wales however notes that under existing legislation compensation is payable only in certain circumstances. While a fishery owner may be entitled to compensation if a byelaw restricts the use or design of an instrument for taking fish, no compensation is paid if extending the close season or close times reduces exploitation. More importantly, we take the view that measures restricting exploitation of salmon, sea trout or eels for conservation reasons would not deprive fisheries' owners of property rights but rather regulate, in the wider public interest, how such rights should be exercised. Wild fish are a natural resource, not private property, and conservation measures are needed to ensure that this resource is managed in a sustainable way. Failure to take necessary conservation measures could lead to a collapse of the resource, which, among other things, would be to the disadvantage of those owning fish rights. For these reasons, agree with the Review Group that compensation should not be payable when action is taken to conserve a natural resource. It notes that compensation is not paid when measures are introduced to reduce exploitation of sea fish, and believes that the same principle should apply to salmon, sea trout and eel fisheries.

43. *A ban on the sale of rod caught salmon should be introduced as soon as possible; the position should be reviewed if and when a carcass tagging scheme comes into force.*

**Accept in principle**

As the Review notes, there is widespread support among angling interests for a ban on the sale of rod caught salmon. The National Assembly for Wales agrees that such a ban would make it more difficult to dispose of illegally caught salmon, and could also help limit exploitation of salmon on some rivers. For these reasons Assembly supports the proposed measure and we will discuss with MAFF whether this would require primary legislation.

*111. Legal powers to introduce carcase tagging should be contained in new salmon fisheries legislation; in the meantime, the Environment Agency and Government should develop detailed proposals for such a scheme.*

### **Accept in part**

The National Assembly for Wales agrees with the Review's conclusion that a carcase tagging scheme would make a useful contribution to salmon conservation, and that a scheme should be introduced, preferably throughout Great Britain. We will discuss with the Environment Agency and other fisheries departments the practicalities, benefits and costs of implementing such a scheme. In anticipation of such a scheme being introduced we agree that it would be sensible to include powers to introduce carcase tagging in any new salmon fisheries legislation.

*112. Once a salmon carcase tagging scheme is in place, a general bag limit should be introduced.*

*113. If and when a general bag limit is set for salmon caught by anglers the carcase tagging scheme should include a ceiling on the number of tags that can be issued to individual salmon netsmen in any year.*

### **Consider**

The Assembly will take all these issues in to account when deciding whether or not to introduce carcass tagging.

## **Allocation of the salmon resource**

*114. A power should be introduced to restrict salmon net licence numbers by byelaw for economic and social reasons. No netsmen solely or mainly dependent on fishing for his livelihood should be deprived of his licence without his consent under this provision. Any netsmen deprived of their licences under this provision should be entitled to compensation. If agreement cannot be reached on the level of compensation, this should be determined by an independent arbitrator.*

### **Accept**

The National Assembly for Wales accepts the Review conclusions on the allocation of the salmon resource. It agrees that while there is no justification for a blanket ban on all commercial net fisheries, there is a need for additional powers to regulate exploitation in order to allocate the catch between interest groups. It agrees therefore that a power should be introduced enabling the Environment Agency to restrict numbers of net licences for economic and social reasons. It also agrees that such a power should not be used to deprive netsmen solely or mainly dependent on fishing for their livelihood of their licences. All those deprived of net licences under this provision should be compensated, and that in most circumstances compensation should be paid by those who would benefit from the reallocation. Full consultation will be undertaken on any proposals for change to the existing legislation

*115. Once carcase tagging is in place consideration should be given to introducing recreational salmon netting licences, with lower licence duties and catch limits than ordinary netting licences.*

### **Consider**

This recommendation is again dependent on the introduction of carcase tagging, and should be considered in this context. We have however, serious reservations about the benefits of introducing a new category of net licences.

*116. The traditional nature of a salmon net fishery, both in terms of the time it has existed and the methods it employs, should be taken into account by the Environment Agency and Government in reaching decisions on the allocation of catches between rod and net fisheries. However, the wish to retain the economic viability of a traditional net fishery should not be used as a pretext for over-riding conservation considerations.*

### **Accept**

The National Assembly for Wales agrees with this recommendation, but notes that its implementation is conditional on implementation of recommendation 114, (see page 36). Welsh coracle fisheries have been allowed to remain open to fish for sea trout early in the season because of their unique cultural and historical significance. Rather than try to define ‘heritage’ net fisheries the Review suggests that the traditional nature of a fishery should be regarded as one of the social factors that must be taken into account in reaching decisions on resource allocation.

## **Sea trout (sewin)**

*44. The Environment Agency should set conservation limits for sea trout.*

### **Accept in principle**

The National Assembly for Wales accepts the Review Group’s arguments for the introduction of conservation limits for sea trout, but shares the Environment Agency’s concern that conservation limits must be practicable and based on sound science. It endorses the Environment Agency’s intention to set conservation limits for sea trout on a trial basis on a limited number of rivers.

*45. Salmon Action Plans should be extended as soon as possible to include sea trout, and where appropriate brown trout, pending development of comprehensive Fisheries Action Plans.*

### **Accept**

## CHAPTER 11: INTRODUCTIONS AND TRANSFERS

### Stocking

46. *Introductions of fish for stocking purposes should continue to be regulated and stocking should be permitted only where it can be justified taking account of the benefits and disadvantages.*
47. *Guidelines on stocking, embodying the following principles should be established:*
- *stocking should be allowed only where there is no significant risk of ecological detriment to donor waters or receiving waters and where there is a demonstrable environmental, economic or recreational advantage;*
  - *stocking should not normally be permitted in waters with established fish populations where it is not currently practised and has not been practised in recent years. However, stocking may be justified in such fisheries if it is needed in order to restore depleted populations or mitigate the effects of, for example, loss of spawning habitat;*
  - *where recreational pressures justify stocking to sustain exploitation rates by anglers or losses due to predation higher than could be sustained naturally, decisions on consent applications should take account of the carrying capacity of the water involved and the management regime proposed for that water body;*
  - *fish should not normally be introduced into waters outside the existing natural range of the species concerned or into new catchments within their existing ranges;*
  - *reintroduction of fish species, which are no longer present in a catchment, should be permitted only after an assessment of the likely environmental effect of the reintroduction.*
48. *Where stocking is consented:*
- *the size, age, number and provenance of the stocked fish should be appropriate to the ecological characteristics of the receiving water;*
  - *the effectiveness and environmental impact of the stocking should be monitored;*
  - *the Environment Agency should itself undertake periodic reviews of its policy on stocking consents, based on its assessment of the effectiveness of stocking and its environmental impact.*

49. *Stocking with salmon should be employed only to address a decline in stocks where:*

- *alternative methods to solve the problem have been fully evaluated and the need for stocking has been clearly identified and justified;*
- *the programme is appropriate and conforms to agreed guidelines/criteria (including the use of appropriate stock and the adoption of best hatchery practices).*

### **Accept in principle**

The National Assembly for Wales agrees that there is a continuing need to regulate stocking. It also agrees in principle with the provisions on stocking proposed by the Review Group, including those on salmon, and looks to the Environment Agency, after consulting interested parties, to establish appropriate guidelines.

### **Fish farms**

117. *The current exemption of fish farms from the requirement to seek approval for introductions of fish should be ended, but the Environment Agency should have the power to exempt particular categories of fish farms from this approval process and to issue consents covering introductions of a particular type within a given period.*

### **Accept**

Any provisions for exempting farms on the basis of Environment Agency discretion would need to be under pinned by an appeals mechanism.

118. *Legislation should be introduced requiring all fish farms, including dealers' premises, to be licensed and the licensing authority should have the power to refuse licences for inappropriate sites and to impose conditions of approval.*

119. *Licences for fish farms should be listed on a public register containing licensing conditions and other relevant information, such as details of outbreaks of notifiable diseases and any prosecutions for breaching licensing conditions.*

### **Consider**

Fish farms are already highly regulated; inland fish farms, for example, require abstraction licences and discharge consents as well as planning permission. While it is true that the species of fish farmed is not currently controlled (unless they are non-native fish), the changes recommended concerning Section 30 consent (Section 30 of the Salmon and Freshwater Fisheries Act, 1975 requires that any person introduction fish or spawn fish into an inland water obtains the prior written consent of the Environment Agency) consents (which we have accepted) would enable restrictions to be imposed here as well. In these circumstances the National Assembly for Wales would not favour the introduction of licences for fish farms unless this could be shown to yield significant advantages over the current arrangements, by

for example, simplifying current arrangements for regulating abstractions and discharges in relation to fish farms. Such licences would also, as the Review recognises, provide a means of ensuring that fish farms were adequately screened, and that other relevant factors, such as flood defence considerations were taken into account. Planning considerations should, however, remain within the responsibility of the relevant local authority. We will explore further with the Environment Agency, the fish farming industry and other interested parties the feasibility and potential benefits of licensing fish farms.

We will also reflect further on the suggestions that any licensing system should extend to dealers premises. It notes that many dealers trade exclusively in ornamental fish, and it has no wish to impose additional restrictions on businesses unless these can be shown to be justified, we will also need to take account of the Data Protection Act and Human Rights Act before taking any decision on a public register.

*50. Marine cage salmon and trout farms should not be permitted in estuaries of rivers containing migratory salmonids or in adjacent coastal waters.*

### **Accept in part**

The National Assembly for Wales is not convinced that an absolute ban on salmon and trout farms in the areas in question could be justified, but agrees that any applications for new marine fish farms should be treated with caution. We will draw this recommendation to the attention of the Crown Estates Commission.

*51. Any transgenic fish kept in England and Wales should be confined to self-contained land-based and escape-proof facilities, with all necessary measures taken to ensure they cannot deliberately (by, for example, vandals) or accidentally be released into the natural environment.*

### **Accept**

In its response to the Review, the Moran Committee urged a general ban on the importation, introduction, breeding and keeping of transgenic fish anywhere in the United Kingdom and sought rigorous controls on scientific research under the control of a multi-agency committee. The National Assembly for Wales however, does not consider that the risks arising from transgenic fish are substantially different from the risks arising from other transgenic animals and so justify especially rigorous regime for transgenic fish. All Genetically Modified Organisms (GMOs) in the United Kingdom are subject to stringent safeguards, and the strict controls already in place on the contained use, release or marketing of GMOs apply equally to transgenic fish. In addition the National Assembly for Wales is already fully committed to the NASCO guidelines on transgenic salmon.

52. *Environmental impact assessments should be made for all proposals for new fish farms or extensions to existing fish farms. In addition, detailed planning guidance should be issued to assist local planning authorities in assessing the suitability of a proposed location.*

### **Accept in principle**

We will look at what guidance exists and consider whether amendments or additional information is required.

53. *When applications for the introduction of non-wild varieties of native species are considered, the Section 30 consent determination should follow the criteria laid down for non-native species covered by licensing provisions.*

### **Environment Agency accepts**

This is a matter for the Environment Agency, which agrees with the recommendation and is addressing the issue.

120. *Screens should be required on inlets and outlets of all fish farms and the Environment Agency should be given powers to impose conditions on the design and maintenance of the screens to be used on any fish farm.*

### **Accept in principle**

The National Assembly for Wales agrees that there should be a legal requirement to screen inlets and outlets of all fish farms. We will explore with the Environment Agency and interested parties how this can best be implemented; recommendation 118, page 39 is relevant here.

## **Non-native fish**

121. *Legislation should be amended to extend the licensing provisions for non-native fish to all non-native cold water species. These might be defined as non-native species that are known to survive and breed outside England and Wales in conditions that are comparable to those appertaining to freshwater in England and Wales.*

122. *The amended legislation for non-native species should contain powers for adding warm-water species to the category of fish species covered by the licensing provisions. This could be done by listing banned species but would require regular review to enable a precautionary approach to be applied.*

### **Accept both in principle**

The National Assembly for Wales agrees that in principle the licensing provisions for non-native fish should apply to all non-native species that could survive in freshwater in England and Wales. The review of non-native species policies, announced during the passage of the Countryside and Rights of Way bill, in early 2001 will address these issues.

123. *The Environment Agency should have explicit powers to remove and, where necessary, destroy unlicensed non-native fish and crayfish and to recover full costs from the owner or occupier of the fishery.*

### **Accept**

The National Assembly for Wales notes that this recommendation applies only to non-native fish which have been introduced without proper authorisation and which are judged to present an unacceptable risk to native flora and fauna. In such cases it would be reasonable to remove, and if necessary, destroy, the fish concerned. Depending on the circumstances, it might also be reasonable to recover the costs involved; compensation for the value of the fish would not be appropriate.

## **Fish health**

54. *The Government should seek a revision of the basic fish health directive (91/67/EEC) to permit specifically the imposition of restrictions on stocking fish into the wild.*

### **Accept**

The European Commission is currently seeking the views of Member States about possible changes to Directive 91/67/EEC, and the Government has requested this change.

55. *Health checks on fish that are to be stocked should be conducted under the following circumstances:*

- *the Environment Agency should continue to impose fish health conditions on stocking waters where stocking would involve a significant risk of spreading disease; these conditions should not be confined to satisfying a laboratory check of a sample of the fish to be stocked;*
- *the Environment Agency should carry out a risk assessment of all proposed stockings and that the fish health conditions it imposes should be commensurate with the level of disease risk. For those stockings that do not involve a significant risk the onus should be on the owners to ensure that the fish stocked are disease free;*
- *the Environment Agency should consider testing selected waters on a regular basis to establish a list of disease free sources of fish for stocking.*

### **Environment Agency accepts in part**

Implementation of this recommendation will be for the Environment Agency.

## **Enforcement**

33. *Express consent from the Environment Agency should be required for the removal of predatory fish in excess of specified maximum numbers from all unenclosed waters.*

### **Environment Agency accepts in principle**

124. *The following procedures should be introduced to control the movements of fish:*

- *a system should be set up to enable all movements of live fish to be recorded and traced;*
- *under this system it should be a legal requirement that all movements of fish be accompanied by the correct documents;*
- *anyone selling fish for stocking or any other purpose should be required to register, and the onus should be on the registered seller to fill in the correct documents;*
- *moving fish without the correct accompanying documentation should be an absolute offence;*
- *no stocking or movements for stocking should be permitted unless the stocking was authorised beforehand, and a register of all stocking consents should be publicly available;*
- *an offence of possessing fish or equipment for the holding or transporting of fish in suspicious circumstances should be created, with the burden of proof reversed so that the onus would be on those found with fish or equipment in such circumstances or without correct documentation to prove that the fish were being handled legally. Conviction for the offence should lead to forfeiture of the fish and equipment involved and the penalty for the offence should reflect potential gains from the offence;*
- *there should be a power of disqualification and/or refusal of registration;*
- *the six month rule should be relaxed so that the time limit for making prosecutions becomes six months from the time that sufficient evidence comes to the knowledge of the prosecutor.*

125. *Ministers should be given wide ranging powers to introduce further restrictions on fish transfers, including, if necessary, prior authorisation of all movements of fish.*

### **Consider**

The National Assembly for Wales agrees that the arrangements recommended by the Review Group would substantially help reduce illegal fish movements, and would make it easier to trace fish in the event of a disease outbreak. The National Assembly for Wales is, however, concerned at the potential costs of the proposed system, both to those involved in moving live

fish commercially and to the public bodies responsible for administering it. It also notes that a very large number of ornamental fish are moved commercially, and these would need to be excluded from the new arrangements. We will consult further on how control of movements of live fish can be improved.

## **Live baiting with fish**

56. *Where the release or escape of fish used as livebait could have an adverse impact on a valuable freshwater ecosystem or a rare fish population, the Environment Agency should ban the use of livebait in the water in question.*

### **Accept in principle**

The National Assembly for Wales notes that the Review Group did not feel that it had the expertise to reach a judgement on the ethical issues involved in the use of livebait, and that its recommendations focus on the potential impact of livebaiting on fish populations. The Review Group pointed out that the Environment Agency had submitted for confirmation a byelaw making it an offence to take fish for use as livebait unless the fish are retained at and used only in the water from which they are taken. It concluded that this, if confirmed, would largely address the problem of unauthorised introductions via livebait.

The Review Group goes on to recommend that livebaiting altogether should be banned in particularly sensitive locations. A considerable number of comments were received **objecting** to this recommendation. These were however, almost evenly split between those who were opposed in principle to livebaiting, and so felt that it did not go far enough, and those who believed the recommendation went too far. The Environment Agency, on the other hand, agreed with the recommendation, and the Government has decided to accept its advice. It will, in any case, be for the Environment Agency to bring forward byelaws banning livebaiting in sensitive locations. Under normal byelaw making procedures all interested parties will have the opportunity to object to specific proposals, and Ministers will consider each proposal on its merits, taking any objections into account, before deciding whether or not it will be confirmed.

57. *If there is evidence that the byelaw stipulating that livebait may be used only in the water from which they are taken is being widely disregarded, the Environment Agency should ban the use of fish as livebait in all unenclosed waters.*

If such a hypothetical situation arises, we will take the Review Group's views into account when considering any further byelaw proposed by the Environment Agency.

## CHAPTER 12: OBSTRUCTIONS TO THE PASSAGE OF FISH

### **Dams**

*126. Anyone creating a new obstruction to the passage of any fish, or increasing or rebuilding an existing one, either in whole or in part, on any river should be required by law to install a fish pass to a design approved by the Environment Agency unless excused from doing so by the Environment Agency. In approving the design, the Environment Agency should determine the purpose of the fish pass, in terms of the species and sizes of fish which should be able to use it, and should require it to be suitable for this purpose.*

#### **Accept in principle**

The National Assembly for Wales agrees that in principle the existing provisions on fish passes should be extended to all rivers and that existing loopholes should be closed. We note, however, the Review Group's comments on the technical difficulties of providing fish passes that will permit all species of coarse fish to pass, and consider that any new provisions will need to incorporate an appropriate degree of flexibility. We will wish to consult widely before new legislation on this issue is adopted.

*127. It should be a requirement to instal elver passes (if the fish pass is not suitable for this purpose) on all new or altered dams and other obstructions, and their installation should be encouraged on existing ones.*

#### **Accept**

Elver passes are very much cheaper to construct and maintain than ordinary fish passes.

*128. If it is not feasible to establish who owns an obstruction, the Environment Agency should have the power to enter on the land and take action to reduce or remove barriers to the passage of fish.*

#### **Accept in principle**

We will explore with the Environment Agency the form, scope and financial implications of such a power.

## **Barrages**

*193. There should be a presumption against the construction of barrages affecting any rivers containing anadromous fish. Barrages on such rivers should be constructed only if there are over-riding social and economic benefits, and adequate mitigation measures should be introduced. The latter should include fish passes which have been demonstrated to operate over a suitably wide range of flows, compensatory restocking where this is necessary; there should also be monitoring programmes to assess the effectiveness of these measures, and adequate budgetary provision for them.*

### **Disagree**

The Assembly does not believe that there should be a presumption against the construction of barrages. However, we do acknowledge the need to consider the passage of fish when barrages are being constructed.

## **Screens**

*129. The legislation should be revised so as to require all outlets drawing water from rivers to be screened with a view to preventing the ingress of fish.*

### **Accept in principle**

The National Assembly for Wales agrees that in principle the requirement to screen outlets should be extended to all rivers. We agree with the Review Group, however, that this requirement will need to be introduced in a practicable and cost-effective way, and will consult widely on this.

## **Fixed engines, fishing weirs and fishing mill dams**

*130. Future salmon fisheries legislation should treat all nets (whether fixed or not), putchers and other devices currently defined as fixed engines or fishing weirs in the same way, and existing provisions on fixed engines, fishing weirs and fishing mill dams should be repealed. Where privileged fixed engines, fishing weirs and fish mill dams are still in use, or the devices concerned have been kept in good repair and are capable of use, the right to use them should be preserved; in other cases the rights to use privileged fixed engines, fishing weirs and fishing mill dams should be extinguished.*

### **Accept in principle**

The National Assembly for Wales agrees that future legislation on salmon and freshwater fisheries should not retain the current distinction between fixed engines and nets. We also agree in principle that where rights to use fixed engines, fishing weirs and fishing mill dams are not exercised, and the devices concerned are in disrepair, these rights should be extinguished, and will consider how this can best be done, i.e. through Assembly Statutory Instrument or Environment Agency byelaws.

*131. Future fisheries legislation should continue to prohibit the setting of any unauthorised fixed net or net left unattended in inland or tidal waters.*



## CHAPTER 13: ENFORCEMENT OF FRESHWATER FISHERIES LEGISLATION

### **Fish theft and illegal fishing**

132. *Statutory water bailiffs should be given the power of arrest and prosecution under the Theft Act.*

#### **Accept in principle**

We agree that there would be benefits in extending water bailiffs powers in this way, and we will discuss with MAFF how this can be achieved. It would then be for the Environment Agency to decide to what extent, and in what circumstances, this power should be exercised.

133. *The Environment Agency should have powers to dispose of equipment that has been used for poaching.*

#### **Accept**

Under S.43 of the Powers of Criminal Courts Act 1973, following conviction for any offence a Court may order forfeiture of any property lawfully seized from the offender used for the purpose of committing or facilitating the commission of the offence, or where the possession of the property was itself the offence. Such an Order may be made irrespective of whether the Court deals with the offender in any other way.

### **Powers of water bailiffs**

134. *Statutory water bailiffs should be given powers to:*

- *Examine all fishing instruments, baits containers and fish;*
- *Search all premises used for handling, selling or otherwise dealing in fish;*
- *Enter all lands adjoining water;*
- *Seize, under warrant, any net or instrument suspected of being used to take fish illegally;*
- *Arrest suspected offenders at any time of the day or night;*
- *Demand production of a rod licence if there are grounds for suspicion that someone has been fishing recently.*

*Warrants to enter premises suspected of being used to commit fisheries offences should be valid for one month.*

#### **Accept in principle**

The Environment Agency sought all of these changes.

58. *The Environment Agency should make greater use of properly trained and equipped honorary water bailiffs and there should be greater consistency over the use of honorary bailiffs between regions.*

### **Comment**

This recommendation is addressed to the Environment Agency.

### **Licences**

59. *Anglers should be required by law to display rod licences prominently on their person.*

### **Consider**

Subject to the views of interested parties and subject to advice on whether this might be possible under Human Rights legislation.

60. *We strongly encourage all fisheries' owners and managers to ensure that anyone permitted to fish in their waters possess a valid rod licence.*

The National Assembly for Wales endorses this recommendation, which is addressed to fisheries' owners and managers.

135. *A summary offence of falsifying a rod licence or using a false rod licence should be created under fisheries legislation*

### **Comment**

Section 6 of the Forgery and Counterfeiting Act 1981 already provides for prosecution of such offences in a Magistrates Court.

### **Penalties and fines**

61. *The Environment Agency should introduce a fixed penalty scheme for minor fisheries offences. For such a scheme to be viable, it is essential that the income from fixed penalties is retained by the Agency to defray costs.*

### **Accept in principle**

This would be subject to Treasury agreement as at present all fixed penalties must be paid to the Treasury.

136. *Anyone convicted of a serious fisheries offence should be ineligible to hold a rod or net licence for a fixed period.*

### **Accept in principle**

The Government agrees that in principle those committing serious offences under fisheries legislation or in connection with more minor fisheries offences (for example, violence against

a bailiff checking rod licences) should be banned from holding a relevant licence for a specified period. It will consider how a provision on these lines can best be implemented.

*62. Government and the Environment Agency should continue their efforts to make judges and magistrates aware of the potential seriousness of fisheries offences and to ensure that punishments imposed by Courts reflect the seriousness of the offence.*

### **Accept**

There is evidence that courts do not fully appreciate the damage which illegal fishing can inflict upon fish stocks.

*194. Government should consider setting up a specialist environment court to try environmental offences including those committed under fisheries legislation.*

*195. Fines imposed by the courts for environmental offences should be paid to the agency responsible for bringing the prosecution to help meet the costs of mitigating environmental damage.*

### **Consider both**

These are far reaching recommendations, which go well beyond salmon and freshwater fisheries legislation. We will bear them in mind when considering how enforcement of environmental law and rules on mitigating environmental damage can be improved.

## **CHAPTER 14: INSTITUTIONAL AND ADMINISTRATIVE ARRANGEMENTS**

A number of the recommendations in Chapter 14 of the Review relate to the duties and role of the Environment Agency. However, the Environment Agency as an Assembly Sponsored Public Body (ASPB) is currently subject to its first Financial, Management and Policy Review (FMPR). This review is being taken forward by the Department of the Environment, Transport and the Regions (DETR) in conjunction with the Environment Agency's co-sponsors MAFF and the National Assembly for Wales. The FMPR will be a fundamental and comprehensive review. In particular Stage 1 will ask fundamental questions about the purpose, functions and organisation of the Environment Agency. This will include consideration of whether all the Environment Agency's functions, including fisheries, are still needed or are being carried out by the most appropriate body, and whether the Environment Agency's advisory committee structure is the most efficient and effective method for engaging with local people and achieving local accountability.

In these circumstances, the National Assembly for Wales has not reached decisions on recommendations 3, 14, 16, 17 and 20. The FMPR will take these recommendations, and all the conclusions reached by the Review Group, into account in formulating its own recommendations, and the National Assembly for Wales will determine its response to these recommendations in the Review in the light of the outcome of the FMPR. The final report of the FMPR is not expected till the early autumn. Other references in this response to the Environment Agency are also without prejudice to the outcome of the FMPR.

### **The fisheries regulator**

2. *The Environment Agency should continue to be the body responsible for the regulation and management of salmon and freshwater fisheries in England and Wales.*

See introductory remarks.

### **Roles of the Minister/National Assembly for Wales and the Environment Agency**

91. *In normal circumstances byelaws should not come into force until confirmed by a Minister or the National Assembly for Wales. There should be a power for the Environment Agency to use an accelerated byelaw making procedure in emergencies. Byelaws made under such a procedure should be of very limited duration and made only in response to unforeseeable, specific problems.*

#### **Accept in principle**

We will agree with both elements of this recommendation. We will give further consideration to an accelerated byelaw making procedure.

## **The Environment Agency**

8. *The Environment Agency should intensify its efforts to improve integration of its policies and activities, particularly those which affect fish, fisheries and the aquatic environment.*

13. *The Environment Agency should establish clearer accountability at Area level for implementing national policies and standards and for achieving planned environmental and socio-economic outcomes.*

### **Environment Agency accepts both**

## **Advisory Committees**

14. *Environment Agency regions which are large and diverse should, if necessary, have more than one Regional Fisheries, Ecology and Recreation Committee (RFERAC).*

See introductory remarks on 51.

15. *The Environment Agency should consult RFERACs at an early stage in the process of developing policy: in particular it should:*

- *keep committees informed of the development of policies on which they are consulted;*
- *involve committees as fully as possible in its decisions, particularly at the regional level;*
- *take account of committees' views on any issue on which they wish to provide advice.*

### **Environment Agency accepts both**

16. *RFERAC chairman should continue to be appointed by Ministers and RFERAC members by the Environment Agency. Candidates for RFERAC membership should be interviewed by a panel with a majority of independent members and the appointment procedure should be open and transparent.*

See introductory remarks on page 51.

17. *The Environment Agency should restore a two tier advisory structure, with a formal local committee system. Under this system the Agency should be required by law to:*

- *establish and maintain at least one local committee in each Area;*
- *consult local committees, and take account of their advice, on the development of Fisheries Action Plans, on annual fishery related targets and on priorities for the use of its resources on fisheries;*
- *consult local committees, and take account of their advice, on other issues of*

*relevance to salmon and freshwater fisheries, such as local flood defence programmes, water quality investments in particular where the Agency is a statutory consultee;*

- *arrange regular meetings of all local committees;*
- *report at one of the meetings each year to local committees on progress against targets and on the state of local fish stocks and additionally to make regular progress reports.*

See introductory remarks on page 51.

In considering this recommendation, National Assembly for Wales will take into account the Environment Agency's view that the establishment of a formal local committee system would be costly and inflexible. The Environment Agency believe that a more effective way to improve local consultation would be to build on existing arrangements at catchment level, where possible linked to Fisheries Action Plans. It also notes that the Review Group suggested the creation of catchment forums. While the Group saw these as independent of its proposed local Area Committees, the National Assembly for Wales is concerned that the creation of both local committees and catchment forums would lead to unnecessary duplication.

### **Arrangements in coastal waters**

20. *The Environment Agency should be properly funded, through Grant-in-Aid, to fulfil its sea fisheries responsibilities in areas where it acts as a Sea Fisheries Committee (SFC). In such waters it should perform the full range of Sea Fisheries Committee regulatory duties necessary to regulate and conserve sea fish as well as salmon, sea trout and eels.*

See introductory remarks on page 51.

21. *There should be a full review of the role and powers of SFCs in coastal waters and of the relationship between SFCs and the Environment Agency. This should cover, among other things:*

- *the respective roles and jurisdictions of the Environment Agency and SFCs;*
- *how co-operation between the Environment Agency and SFCs can be improved so as to make best use of resources devoted to the enforcement of sea fisheries and salmon and freshwater fisheries legislation in coastal waters;*
- *extending the Environment Agency's powers to act as an SFC in estuaries of rivers containing migratory salmonids;*
- *how the Environment Agency and SFCs can best co-operate to regulate eels fisheries in coastal waters;*
- *how best to protect diadromous fish, other than salmon, sea trout and eels, in coastal waters.*

## **Accept in principle**

We are currently carrying out a study into Welsh Fisheries and the relationship between the SFC's and the Environment Agency is one of the issues being considered.

## **Other agencies**

*19. Statutory agencies with functions of relevance to the management of fisheries should work more closely together to ensure that fisheries issues are properly addressed. Where the responsibility for implementing legislation falls to different agencies, it is essential that these agencies co-ordinate their activities.*

## **Accept**

The National Assembly for Wales agrees that the statutory agencies need to co-operate closely on issues of relevance to the conservation of freshwater fish and the management of freshwater fisheries. We have already begun discussions with relevant agencies including the Environment Agency and the Countryside Council for Wales on how such co-operation can be improved.

## **United Kingdom wide issues**

*92. The Environment Agency should be able to exercise its byelaw making powers to conserve salmon and other diadromous fish originating outside England and Wales while they are within its jurisdiction.*

## **Accept**

## **Action plans**

*18. The Environment Agency should be required by law to develop Fisheries Action Plans for all catchments. Where appropriate, Salmon Action Plans should be incorporated into Fisheries Action Plans, which should be reviewed annually with targets updated to reflect revised priorities and available resources. The development of Fisheries Action Plans should be an integral part of the LEAP process.*

## **Accept in principle**

The Environment Agency is undertaking a pilot project on Fisheries Action Plans, and if this is successful will develop Fisheries Action Plans for all catchments. The Environment Agency accepts the need for Fisheries Action Plans to be closely co-ordinated with LEAPs. The National Assembly for Wales endorses the Environment Agency's approach but would like to consider further whether it is appropriate for Fisheries Action Plans to be placed on a statutory basis, since they will rely heavily on interest and commitment from local stakeholders.

## **Fisheries' owners and clubs**

93. *The Environment Agency should have the power to pay grants towards the cost of fisheries and habitat improvement work.*

### **Accept in principle**

The Welsh European Funding Agency (WEFO) are considering whether objective 1 funds can be made available to the Environment Agency to operate grant schemes covering a wide range of environmental improvement.

### **Professional accreditation**

27. *The Environment Agency should explore areas where the management of enclosed waters can be deregulated from fisheries legislation where this encourages owners and managers to maintain, improve and develop their fisheries without detriment to fish stocks elsewhere.*

### **Environment Agency accepts**

## CHAPTER 15: PUBLIC EXPENDITURE

### **Level of public spending**

4. *In the forthcoming public expenditure round the Government should provide a substantial increase in Grant-in-Aid for the Environment Agency's fisheries function in England and Wales.*

The National Assembly for Wales will consider any bids from the Environment Agency for any additional Grant-in-Aid that might be required by them to carry out the recommendations in the Review.

94. *The Government should explore and develop ways of raising money to fund some of the costs of the Environment Agency's fisheries' function through a levy on charges for abstraction licences and discharge consents.*

#### **Comment**

The National Assembly for Wales will continue to discuss, with the Environment Agency the level of funding required for it to carry out its fisheries functions.

7. *The Environment Agency should ensure that all work carried out by its fisheries function to benefit its other functions is properly identified and costs recovered accordingly.*

#### **Comment**

Current practice.

### **Contributions from those involved in salmon and freshwater fisheries**

5. *Rod licences should be retained and rod licence duties should continue to contribute to the funding of the Environment Agency's fisheries activities.*

#### **Accept**

6. *The Environment Agency should provide a wider range of payment options for fishing licences including direct debit.*

#### **Environment Agency accepts**

12. *The Environment Agency should propose appropriate increases in licence duties on instruments used in eel and elver fisheries.*

#### **Environment Agency accepts**