

Lesley Griffiths AC/AM  
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA-LG-1429-20

Mick Antoniw AM  
Chair  
Legislation, Justice and Constitution Committee

SeneddLJC@assembly.wales

1 May 2020

Dear Mick

I am writing further to my attendance at the evidence session on 16 March, regarding the Legislative Consent Memorandum in relation to the UK Fisheries Bill. I committed to write to the Committee on a number of the matters raised.

### Clause 23

I wanted to clarify one of the points we discussed around Clause 23 – power of the Secretary of State to determine fishing opportunities. During scrutiny I was asked if amendments will be made to the Bill in relation to the concerns I raised previously on clause 23. I want to clarify, we are not seeking any amendments.

This remains a red line issue for me because it is paramount this power is exercised in a manner which respects the devolution settlement. I have reached an agreement with the UK Government to set out in the UK Fisheries Framework Memorandum of Understanding (MoU), or an alternative route if we both agree it is more suitable, more detail on the intended use of the power within clause 23 which will include strengthened consultation processes. I have attached a letter from Victoria Prentis MP which re-confirms this commitment.

We expect the MoU to be in place by the end of the Implementation Period and my officials are working closely with Defra and the Devolved Administrations to progress all elements of the Framework. I am comforted by the collaborative and respectful way all four UK administrations are working together to deliver the UK Fisheries Framework.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

## Dispute Resolution Mechanism

We discussed dispute resolution mechanisms and I have always maintained the importance of there being adequate dispute resolution arrangements in place. I want to provide reassurances on this matter. Dispute avoidance processes linked to portfolio level structures are already in place and well established. These are the Senior Officials Programme Board and where Ministerial escalation is required, via the Inter-Ministerial Group – Environment, Fisheries and Rural Affairs (IMG-EFRA).

The detailed arrangements for governance in fisheries, including decision making, dispute avoidance and dispute resolution will also be covered, and existing arrangements will be strengthened, through the development of the UK Fisheries Framework. This is part of the UK Common Frameworks approach, which is supported by all fisheries administrations.

The fisheries administrations have a strong track record of working closely together to develop fisheries management policy and resolve disputes. In addition to regular Ministerial and Official level contact, all four fisheries administrations are signatories to the 2012 Concordat on the “Management Arrangements for Fishing Opportunities and Fishing Vessel Licensing in the United Kingdom”, which sets out ways of working.

It is, therefore, considered unnecessary to incorporate any additional processes into the UK Fisheries Bill. Additionally given the existence of the wider UK Framework which leads to the Joint Ministerial Committee, it would be inappropriate to introduce legislation which addresses dispute resolution solely for fisheries policies.

## Consent for clauses 28 – 32

I said I would update you on discussions with UK Government when they had concluded on whether clauses 28 – 32 require Senedd Cymru (Senedd) consent. My officials have discussed with Defra and our view remains these clauses do not require consent.

These provisions allow the Secretary of State, to create a charging scheme but the scheme will only apply to the holder of an English fishing licence, issued by the Secretary of State. The English fishing licence will be subject to a maximum catch provision, which will be determined by the Marine Management Organisation, and if the Secretary of State establishes a discard prevention charging scheme it will apply only to English fishing boats operating under licences issued by the Secretary of State who exceed their maximum catch provision. It is, therefore, an aspect of the regulation of English fishing boats.

The way in which such regulations will be relevant to Wales and the Welsh zone is English fishing boats will remain subject to such regulations when they are within Welsh waters, and within Scottish and Northern Irish waters.

It remains our view these clauses do not require Senedd consent because the scheme will be part and parcel of the regulation of English fishing boats, which is a matter for the Secretary of State.

## Sunset Provisions

I said I would revisit whether the Bill should include sunset provisions in relation to the Welsh provisions.

My position is clear and I see the Welsh provisions, not related to the common framework, as purely transitional subject to the introduction at the appropriate time of a Welsh Fisheries Bill.

We are working to deliver a fit for purpose Future Fisheries Policy and this needs to be done within reasonable timeframes, which enable us to reflect on the outcomes of Brexit and the impacts on our industry. The impacts are now compounded by the COVID-19 crisis. The need to respond to this unprecedented situation, shows why we must keep flexibility in our legal powers, given the need to respond to changing priorities and to refocus resources accordingly.

At this time, while I am committed to bringing forward a Welsh Fisheries Bill in the next term of the Senedd, I cannot guarantee when it will be included in the Senedd's Legislative Programme, and I do not want to create a risk of losing key powers we may need in the future by including sunset provisions in the UK Bill.

Regards

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

**Lesley Griffiths AC/AM**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs

CC Mike Hedges AM, Chair of Climate Change, Environment and Rural Affairs Committee



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8 April 2020

Dear Lesley,

Thank you for your letter of 29 January to the former Minister of State about the Fisheries Bill. I am replying as the Minister responsible for this policy area. I apologise for the delay in responding. Defra is currently dealing with high volumes of correspondence due to COVID-19. Thank you for your understanding during this challenging time

It was good to speak to you on 9 March and I thank you for your letter of 11 February in which you confirmed that you would begin the legislative consent process, and for the subsequent Memorandum of Understanding (MoU) laid on 12 February.

I echo your view that the constructive collaboration between officials has led to a Bill that delivers effectively for fishing industries right across the UK. I am grateful for your confirmation that you were content with the approach taken to a UK wide framework in the Bill, including through the fisheries objectives, Joint Fisheries Statement, and fisheries management plans. Again, these provisions have been strengthened by officials working together and I would like to thank them.

You raised two further issues. Firstly, the Government of Wales Act (GoWA) 2006. I am aware that officials in the Welsh Office have shared drafting responsibilities of the section 109 GoWA Order with your officials, and that this work is at an advanced stage. The Government is clear that the consent requirements will not apply should the Assembly decide to remove the concurrent powers in the Fisheries Bill from Ministers of the Crown in future. As such I am assured that this matter is close to resolution and will not require an amendment to the Bill.

Secondly, the determination of fishing opportunities, as officials have discussed, the power set out in clause 23, which allows for the Secretary of State to determine fishing opportunities for the UK, is not a devolved matter. The determination of the UK quota cannot, by its nature, be a devolved function and is therefore a function of the Secretary of State. We agree that the implementation of the UK's international obligations is a devolved matter: managing the share of the UK's fishing opportunities allocated to Welsh Ministers in accordance with the UK's international obligations is of course a matter for Wales.

Clause 24 of the Bill obliges the Secretary of State to consult all Administrations before making or withdrawing a determination under clause 23. That said, I am happy to make clear through the MoU, or another route if we both agree that is more suitable, the commitment you previously received that we will set out the circumstances in which the power under Clause 23 will be exercised, and how consultation provisions could be strengthened beyond those set out in the Bill.



An early opportunity for putting consultation and cooperation into practice will come from the need to work together on defining additional quota, and considering how that might be allocated across the four Administrations. We will also work together on the Joint Fisheries Statement and on Fisheries Management Plans. We should also update the UK Quota Management Rules and this would again provide a good opportunity to collaborate.

I hope that these responses have provided you with the assurances you were seeking, and that you can now seek to recommend consent to the Assembly. I am hopeful that the legislative consent motion can be passed within the passage of the Bill through the House of Lords.

I would like to again thank you and your officials for your engagement this far and look forward to working with you as the Fisheries Bill progresses and on other matters too.

I am copying this letter to the Secretary of State for Wales.

Yours sincerely,



**VICTORIA PRENTIS MP**