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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: LG/0374/19

Mike Hedges AM
Climate Change, Environment and Rural Affairs Committee
National Assembly for Wales
Ty Hywel
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17 April 2019

Dear Mike

Climate Change, Environment and Rural Affairs Committee report on the Legislative Consent Memorandum in relation to the UK Fisheries Bill – follow up letter

Thank you for your letter dated 5 April, following the consideration by the Committee of the Welsh Government's response to your report on the UK Fisheries Bill LCM. I have set out responses to your questions below.

The need for legislation and the approach taken

1. We would like you to address this outstanding issue in your response to this letter. Can you provide examples of how stakeholders were involved in the development of the UK Bill? Please specify who those stakeholders were and how they were involved.

This is a UK Government Bill and Defra published their white paper consultation titled the Sustainable fisheries for future generations on 4 July 2018, prior to the Bill being introduced in October 2018. The summary of responses document notes in total 34,667 responses were received.

These consisted of:

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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.

- 34,440 campaign responses (comprising of campaigns from Greenpeace, Marine Conservation Society, Whale and Dolphin Conservation and Angling Trust)
- 227 individual responses

At the inter-government level, we continue to develop the framework, which sets the high level framework and engagement and working arrangements between governments.

The Joint Fisheries Statement (JFS) in particular, is the key mechanism for stakeholders to engage to inform and shape our policies for delivering the fisheries objectives. A detailed and inclusive approach to stakeholder engagement on the development of the JFS is currently being drawn up and information on this will be made available as soon as possible.

2. Can you provide a more detailed explanation of the purpose and intended effect of the executive powers beyond that already included in the LCM and in your evidence to the Committee? This should distinguish between new and existing powers.

As you know the timing for the UK's exit from the EU has now been put back to October 2019, unless a deal can be reached sooner. The latest information from UK Government is the Bill is unlikely to be given Parliamentary time until a deal with Europe has been reached. This could, of course, change. The Bill continues to evolve and I commit to making further information available, at the appropriate time in the Bill's progression through Parliament, to ensure the Committee and the Assembly are provided with the necessary information to make their consent decision.

I expect there will be further amendments to the Bill, which relate to Wales. Following this, a further Supplementary Legislative Consent Memorandum will be laid for Assembly scrutiny.

In addition to the Supplementary Legislative Consent Memorandum, I will provide a paper covering all the Bill provisions which will explain the purpose and intended effect of the executive powers within the Bill in greater detail.

3. Can you clarify which of the specific powers provided may be needed in the immediate post-Brexit period?

I restate the uncertain future we have ahead of us. It is wise to seek these enabling powers now to achieve parity with the other Fisheries Administrations and enable us to respond to the emerging situation, whether these powers are needed immediately on EU Exit or on a longer term basis. The intention is these powers will be transitional. A Welsh Fisheries Bill (once the National Assembly for Wales has secured the extension to the Assembly's Legislative Competence via the UK Fisheries Bill) will provide an opportunity to refine powers to better fit the fisheries management challenges which will become clearer after we exit the EU. In summary, with regard to the need to use the powers in schedules 4, 6 and 7 immediately post Brexit:

Schedule 4 – It is possible a scheme could be introduced once we leave the EU, depending on timescales and circumstances. My officials continue to work closely with Defra and the other Devolved Administrations to consider future schemes and funding mechanisms for the fishing industry going forward.

Schedule 6 – this Statutory Instrument making power is necessary given the uncertainty of what we will face as we exit the European Union. It may be necessary to make secondary legislation, in unforeseen circumstances. It would be unwise to constrain ourselves (and place ourselves at a disadvantage in comparison to the other UK fisheries administrations) by not including this in the UK Bill and making it available at the earliest opportunity.

Schedule 7 – these powers will form part of our fisheries management toolkit and could be used immediately or soon after depending on pressures arising. These powers will also ensure the position in the various UK Fisheries Administrations remains parallel. The alternative could result in a situation where England, Scotland and Northern Ireland are able to take action to (for example) protect an area of sea but the Welsh Ministers are without the necessary enabling power until a Welsh Fisheries Bill could be brought forward. It seems unwise to take the risk when the UK Fisheries Bill presents an appropriate legislative vehicle to provide the necessary powers. I am also seeking an amendment to enable the Welsh Ministers to exercise the powers in the new section 134A and B of the Marine and Coastal Access Act 2009 (inserted by Schedule 7 to the UK Fisheries Bill) in emergency situations (removing the requirement to consult, only where absolutely necessary). These powers are important to act quickly to sustainably manage our fisheries in Wales and the Welsh Zone.

4. Can you clarify when you will be in a position to notify us of your intention to bring forward a Welsh Bill?

The First Minister will make his annual statement on the legislative programme before summer recess. As he stated in his letter to you of 22 March, it is clear we will need to put provisions onto the Welsh statute book and the intention is the UK Fisheries Bill powers will be transitional until we understand better what powers will be necessary post EU-exit and, at this stage, any additional powers can be put in place via a Welsh Fisheries Bill (once we have secured the extension to the Assembly's Legislative Competence via the UK Fisheries Bill). The UK Fisheries Bill will not lead to the Assembly giving up any legislative powers. In fact, the UK Fisheries Bill will lead to an extension of Assembly Legislative Competence in relation to this subject. It will then be within the remit of any future Welsh Fisheries Bill to adjust any of the powers included in the UK Fisheries Bill and provide such new powers as may prove necessary. At present, for reasons of both timing and current restrictions on the Assembly's Legislative Competence in this area, we are dependent on a number of the UK Fisheries Bill provisions (in particular the extension of the Assembly's legislative competence). However, until the Bill has passed through Parliament and the developing post EU-exit position becomes clearer it is difficult to commit to a timetable for a Welsh Fisheries Bill.

Access to British fisheries

5. Can you provide further details, beyond those set out above, on how and when these additional requirements will be determined?

At the point we exit the EU, and are no longer bound by the Common Fisheries Policy, the new licensing system for foreign vessels will be launched. The current intention is, the Single Issuing Authority will be acting on behalf of the Welsh Ministers in licensing foreign fishing vessels and seeking authorisation for any Welsh vessels who wish to fish in European waters. The licence will reference licence conditions for each of the four fisheries administrations. The licence conditions for Welsh waters, which set the rules for how vessels fishing in our seas operate, will be set and managed by Welsh Ministers. The Welsh Ministers will be responsible for each licensing decision made in relation to relevant boats. Welsh Government Officials are currently working with officials from the other Devolved Fisheries Administrations and the Marine Management Organisation (which, is intended to be the host organisation for the Single Issuing Authority) in order to develop any additional requirements which may be considered necessary. The intention is for the necessary licence conditions to be made available on the Welsh Government website, and these will be regularly updated.

Fishing opportunities and quota share

6. Can you provide the Committee with details of any consultation you have undertaken with stakeholders on these provisions?

This is a UK Government Bill and they carried out consultation with stakeholders, in advance of introducing these Bill provisions.

The Welsh Government position on the share of quota is our small scale low impact fisheries have been disadvantaged for too long. The Well-being of Future Generations (Wales) Act 2015 is clear; we need to ensure coastal communities see value in the fish off their shores both now and for future generations.

There is an opportunity for the UK Government in its future negotiations with the EU, to win a greater share of fish which could be used to rebalance fishing opportunities to allow small scale coastal fleets to become more economically sustainable and investible.

The Welsh Government has been pushing the UK Government throughout these processes for a fairer share of fishing opportunity. We have made it clear we consider there is a fundamental imbalance to quota in the UK and will continue to press the UK Government to address this matter.

7. We would like you to share that correspondence, and any responses received, with the Committee to enable us to understand more fully what you consider will be a “better settlement” for Welsh fisheries.

8. We would like you to explain what aligning the approach to allocation with the Future Generations (Wales) Act 2015 will mean in practice.

9. We would like you to share with us any recent correspondence with the UK Government in relation to Wales’ quota share, and any responses received.

10. We would like to confirm that you are actively pursuing with the UK Government and the other devolved administrations a move away from the use of historic catches as the main determination for quota allocations.

I fully accept the need to rebalance the fundamental unfairness in the allocation of quota and I will continue to push for this. Discussions with the other UK fisheries administrations have begun and I can confirm I am committed to exploring all options with UK Government and will consider carefully which of these would best support the fishing industry in Wales whilst still supporting the sustainability of our stocks.

Alignment with the Well-being of Future Generations (Wales) Act 2015 (WFG Act) is about understanding the whole picture – having the science and evidence to know what resources and stocks are available to us, which are at risk, which have recovered and which can be exploited further. It’s also about understanding the human element, what impact various policies have on fishing communities and coastal communities as a whole. It’s about utilising all of this information to better inform policies and decision.

I have attached correspondence between myself and Michael Gove MP. Due to sensitivity markings, I am unable to share all correspondence relating to this matter. However, I have set out under question 6, what I consider a better settlement and unfair quota share to mean.

We are currently working with Natural Resources Wales to develop a Marine Evidence Strategy for Wales which will:

- provide a framework to support the collection of marine evidence for developing, implementing, informing and evaluating marine policies and programmes
- support wider engagement and understanding around the risks and opportunities in Welsh seas
- define high level, strategic marine evidence priorities for Wales and guide the implementation, monitoring and review of actions to meet those priorities
- improve collaboration and co-ordination of scientific knowledge, resources and communication
- help align and develop Wales' marine evidence capacity and promote innovation

Financial Assistance powers and future funding

11. We seek further assurance from you that the Welsh fisheries sector will not face any reduction in funding as a result of Brexit.

I expect the UK Government to honour its commitment to guarantee all of the current EU funding programmes in full once we exit the EU. In terms of all funding arrangements after we exit the EU, Welsh Government has been clear Wales must not receive a penny less as a result of exiting the EU.

12. Can you provide details of any work you have undertaken to assess the costs of the implementing the provisions within the UK Bill?

13. Can you provide details of your latest assessment of the financial implications arising from the UK Bill?

Work is underway to assess the full costs of the Bill. We do not have a final position yet given the evolving nature of the Bill and the impact of a further delay to EU Exit. However, I expect the Bill will have few immediate financial implications but are likely to be additional costs in providing new functions over the longer term. I will write to the Committee in advance of the debate to set out the financial implications for the Bill.

14. We would like you to update us on any progress made in securing agreement from the UK Government to amendments in relation to the following:

- a requirement to review the fisheries objectives (Conclusion 8);
- a requirement for the fisheries policy authorities to report to the relevant legislature on progress made in policy implementation and in delivering the fisheries objectives (Conclusion 10); and
- a requirement on the Welsh Ministers to consult on proposals for any future financial assistance scheme established under Schedule 4 (Conclusion 21).

Welsh Government officials continue to discuss this with Defra and the other Devolved Fisheries Administrations, and this is currently being taken forward within the remit of the Joint Fisheries Statement Working Group.

Regards
Lesley

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The Rt Hon Michael Gove MP
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9 December 2018

Dear Lesley,

I am writing to let you know that tomorrow the Government will announce that it is tabling an amendment to the Fisheries Bill and committing to extra funding for the fishing industry.

On Monday the Government will table an amendment which will enshrine its commitment to secure a fairer share of fishing opportunities for UK fishermen. The amendment would place a legal obligation on the government, when negotiating a fisheries agreement with the EU, to pursue a fairer share of fishing opportunities than the UK currently receives under the Common Fisheries Policy (CFP). This will give legal weight to our commitment to take back control of our waters and to secure a fairer share of fishing opportunities for the whole of the UK fishing industry.

I will also announce that the Government has committed £37.2 million of extra funding to boost the UK fishing industry during the Implementation Period. This will equate to around £2.4 million for Wales. It is in addition to the existing European Maritime and Fisheries Fund, which at €243m over seven years is, as you know, broadly equivalent to £32m a year. The funding will be delivered through the existing EMFF framework, so it will be provided to the sector using the current EMFF delivery mechanisms. The new funding will boost the industry as we become an independent coastal state, preparing the UK to receive a greater share of future fishing opportunities.

In addition to this I will announce that the Government will put in place new, domestic, long-term arrangements to support the UK's fishing industry from 2021, through the creation of four new schemes comparable to EMFF to deliver funding for each nation of the UK. The Welsh Government will lead on the scheme for Wales and details will be agreed at the 2019 Spending Review.

With every good wish,

Michael Gove

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January 2019

Dear Michael

Thank you for your letter of 9 December regarding an amendment to the UK Fisheries Bill and commitments for further funding for the industry.

Given the close working between our officials on finance in relation to our exit from the EU, I was very disappointed this was the first I have heard of the successor to the European Maritime and Fisheries Fund.

Any successor scheme must reflect the needs of the distinct fishing industry in Wales. You also recognise Wales will need to develop its own scheme to meet the unique demands of our industry. As a result, I expect to be fully involved in the Spending Review to enable us to put forward a robust case for a fair budget for Wales.

Whilst I welcome the further £2.4million funding, I fear this money will do little to aid the fishing industry in Wales, which, as a primarily small scale shellfish based industry, is dependent on continued unfettered access to EU markets. Securing continued access to the European market must be a priority in the exit negotiations. I am also concerned this funding is to be delivered through EMFF, a scheme which may not best align to our needs as we exit the EU.

In relation to the proposed amendment to the Fisheries Bill, as we set out in 'Securing Wales' Future', we want to see the Welsh fishing industry receive its fair share of fishing

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opportunities in the future. Therefore, any increase in the UKs share must be used to address these historic imbalances.

Regards
Lesley

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