

Y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig | Climate Change,  
Environment and Rural Affairs Committee

Memorandwm Cydsyniad Deddfwriaethol ar Fil Pysgodfeydd y DU | Legislative  
Consent Memorandum on the UK Fisheries Bill

Ymateb gan : New Under Ten Fishermen's Association (NUTFA)

Evidence from : New Under Ten Fishermen's Association (NUTFA)

When Richard Benyon became Fisheries Minister he said that 'if I was starting, it wouldn't be from here', a reference to the corner that successive governments, aided and abetted by their officials had painted themselves into over many years [often with the willing complicity of the larger scale fleet].

The current situation needs little explanation but is worth reiterating in brief.

Access to over 50% of UK quota entitlements is in foreign hands, flag ships continue to take significant quantities of fish from UK waters, little troubled by the requirements of the weak and ineffectual economic link legislation [that appears to be in a constant state of review], an amount of UK quota is held by 'slipper skippers' forcing working fishermen to spend up to half of their income in some cases on leasing quota to remain viable which in turn forces them to employ mainly far eastern crews instead of an indigenous workforce [including new entrants]. Small scale fishing activity in coastal communities the length and breadth of the UK has either disappeared altogether or is a shadow of its former self, these inshore fishermen have been in the majority of cases forced into the pursuit of often poorly understood and managed non quota stocks whilst the profit margins of larger scale quota owners continues to increase.

At the same time, the abject failure of both European and national fisheries management, so often lagging far behind the reality at sea, a lack of investment in science, especially for new or non quota species and the willing blindness to the excesses, albeit on an ostensibly legal basis, of massive industrial trawlers being able to fish with impunity in the UK's territorial waters has resulted in an urgent need for a complete rethink and overhaul of the management of fisheries in our waters.

The reason for this diatribe is to ensure that all concerned understand the gravity of the current situation for the majority of UK fishermen and therefore the need, and opportunity, for a root and branch reform of what is a broken system that serves the interests of a small number of increasingly wealthy operators, many of them foreign corporations and at the expense of inshore fishermen and the often vulnerable coastal communities in which they reside. The Fisheries Bill is only one part of that need and at least must provide the ability for the UK to genuinely meet the commitment to improved and world leading fisheries management.

#### General Comments:

As lay people, it is challenging to comment with any degree of authority on the legislative framework within the Bill but we consider that it is made up of more powers than duties and this approach causes concern with regard to accountability and the decision making process going forward.

In more specific terms, Clause 1[2] seems unnecessarily weak with regard to the requirement for environmental sustainability in the long term [but without defining the term] and 1[2][b] seems equally weak with regard to the current CFP Article 2 that demands a fair standard of living for fishermen and their coastal communities. The current clause refers to fishing and aquaculture activities being managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies and in our view needs to be more focused and specific, especially with regard to the link with Clause 20 that refers to the allocation of and access to fishing opportunities in a similar way to the current Article 17 of the CFP. This is of particular relevance in a Welsh context following the loss of access to wider UK fishing opportunities following the error of the then Welsh Minister in signing the Fisheries Concordat in 2012. This decision very significantly reduced the flexibility and opportunities for diversification for Welsh fishermen as it left them entirely reliant on the very small amount of quota affixed to the overall Welsh track record. This very small track record reflected the historic focus on non quota species by the under ten metre fleet in Wales but provides a serious impediment for future fisheries that could prove to be vital in years to come. The requirement in the Bill for all British fishing vessels to be able to fish in all British waters could easily result in vessels from other Administrations, as well as those in foreign ownership but on the UK register, being able to fish Welsh waters owing to their quota holdings whilst indigenous Welsh fishermen could only stand and watch through not having access to fishing opportunities [quota] in our own waters.

With regard to the Joint Fisheries Statement, a more technical element of the draft Bill, we make no apologies for referring to the wise and erudite comments made by Professor Richard Barnes of Hull University in this respect. He has a far more in depth understanding of such processes and we agree with his written comments to the Public Bill Committee of the House of Commons in this respect and we therefore copy below for clarity.

#### ***“Fisheries Statements***

*7. Fisheries statements provide a link between the general fisheries objectives and specific policy commitments. The Bill should include a provision requiring the Secretary of State or fisheries policy authorities to ensure that the fisheries objectives will be implemented. As noted above this would be best achieved by framing the objectives as duties. This would replace the somewhat weaker indirect reference to ‘policies (however expressed) for achieving, or contributing to the achievement of, the fisheries objectives’ in Clause 2(1). The term ‘however’ expressed’ allows too much latitude and could generate uncertainty as to whether specific measures relate to the fisheries objectives. This should be removed or framed in terms that express a stronger commitment to advancing the fisheries objectives.*

*8. JFS and Secretary of State fisheries statements (SSFs) play a critical role in establishing the framework for more specific legal measures to manage fisheries. As such they must be subject to full and transparent scrutiny. There is initial scrutiny of this through the Schedule 1 process. The scope of consultation is generally framed and linked to ‘interested persons’. Consideration should be given to be enhancing the rigour of this part of the process to recourse to statutory consultees including local authorities, the Environment Agency or other named stakeholders. And including a minimum period for public consultation.*

*9. There is a review process in respect of the fisheries statements in Clause 5. However, the review process appears to lack independence and formal structure. Objectivity is lacking since it is the fisheries policy authorities preparing the JFS, and the Secretary of State preparing the JFS, that must review the policies. Some indication of the purpose and content of the review is desirable, as*

*well as scope for external input into the review. If such requirements are not included in the primary legislation, then it would be appropriate for this to be contained in secondary legislation or policy guidance.*

*10. The SSFSs include reference to ‘promoting coastal fishing activities, taking into account socio-economic factors’ (Clause 2(2)(h)). This is important, but it should include specific reference to the interests of coastal communities since the interested concerns are not simply related to actual fishing activities. It is suggested the term be amended as follows: ‘promoting coastal fishing activities and the needs for dependent coastal communities, taking into account socio-economic factors.’*

*11. Clause 6 provides that fisheries statements must be adhered to by national authorities unless ‘other relevant considerations indicate otherwise’. This provides a potentially wide exception to the requirements to adhere to statement (and fisheries objectives). The threshold for exceptions should be higher: eg the public body shall exercise its functions with due regard to the (objectives/duties) and policies contained in a JFS unless there are overriding reasons in the public interest for doing otherwise”.*

#### Suggested amendments:

##### Article 9: British fishing boats required to be licensed

1) Fishing anywhere by a British fishing boat is prohibited unless authorised by a licence.

(2) Subsection (1) does not apply to fishing — [2][9] ‘by a boat used wholly for the purpose of conveying persons wishing to fish for pleasure’.

There is an inherent contradiction here in that on the one hand the ability of a licenced commercial fisherman to diversity effort into taking out recreational anglers is generally considered a good thing. It reduces commercial fishing effort, especially on quota species and it provides another string to a fishermen’s bow when it is not practical to go commercial fishing. On the other hand, a small number of operators are accused of fishing commercially under the guise of recreational fishing, either by retaining the majority of fish caught by the customers, or selling it to them at commercial rates, or indeed using commercial crews pretending to be recreational fishers.

Suggested amendment: **‘[2][9] by a boat used wholly for the purpose of conveying persons wishing to fish for pleasure and who are able to retain or discard their catch without further recompense for the operator’**

##### Article 20 – Distribution of fishing opportunities:

There is no doubt that the current methodology for the allocation of quota to the UK fleet as a whole is both unfair to the majority of UK fishermen and counter productive in socio economic and environmental terms to coastal communities.

The existing Article 17 of the current CFP was heralded as ‘potentially revolutionary’ by senior EU officials when it was launched as part of the overall reformed CFP.

It was possibly because of this that it failed to be implemented effectively in any EU member state.

Greenpeace subsequently took the government to the High Court, specifically with regard to their failure to implement the environmental criteria element, and lost.

DEFRA was able to argue that they already used social, economic and environmental criteria when allocating the UK quota against existing FQA’s [fixed quota allocations] – [this decision was a

fundamental nonsense not least as it can easily be shown that these criteria are not used in allocation to any meaningful extent].

In considering an amendment to the current draft Fisheries Bill, there seems little reason to try and write something new for the sake of it in regard to the allocation of quota when the existing legislation, suitably and simply amended to remove the unhelpful flexibility inherent within the current article, provides a practical option that tightens the required criteria but at the same time allows for legislative flexibility albeit at a much lower scale than with regard to the original.

**Article 20 amendment:**

**Criteria for the allocation of fishing opportunities by UK Fisheries Administrations**

*When allocating the fishing opportunities available to them, UK Fisheries Administrations shall use transparent and objective criteria including those of an environmental and social nature therefore recognising fish as public property held on trust for the people. The criteria to be used shall include, inter alia, the impact of fishing on the environment and the social and economic contribution to the local economy.*

*When allocating fishing opportunities available to them, UK Fisheries Administrations shall provide incentives to fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage.*

*The documents and evidence forming the basis for allocation decisions must be made available to the public within 20 days of the decision being made.*

**Articles 10 & 12** appear to give a potentially free rein to devolved administrations to create and allocate additional fishing licences without there being any overall control on the number of UK fishing vessel licences. The same seems to apply to the provision of licences to foreign fishing vessels. We consider this potentially both dangerous and divisive and there has to be an overarching requirement on central government to control the provision of additional licences for access to fishing UK waters. [It is only sub para 2 of Article 11 that requires the affirmative resolution procedure].

**Both articles therefore need some form of controlling amendment such as “ with the agreement of the other fisheries administrations...”**

**Article 22: Sale of English fishing opportunities for a calendar year**

This is a terrible article and one that flies in the face of all the arguments relating to quota as property and merely promotes the further consolidation of fishing opportunities into fewer and fewer hands. If the government is looking at this approach as a method of generating revenue then an infinitely more equitable method would be to simply increase the levy currently attributed to Seafish rather than effectively sell off a chunk of quota on an annual basis to the detriment of the vast majority of the fleet, not least those who do not have the financial reserves to enter into an auction race and those new entrants where it has been recognised that a major impediment to their ability to enter the catching sector is the cost of quota. It will without doubt only serve to benefit already wealthy operators at the expense of other fishermen and would ostensibly be open to resale or lease under the proposed rules, further underpinning the current imbalance in allocations.

In addition, **Article 22[3][n]** states: ‘for the payment of compensation to a person who holds but does not use rights sold in accordance with the regulations’;

In much the same way as UK fishermen are regularly disenfranchised by the quota held by slipper skippers and quota traders, anyone holding quota, other than genuinely working fishermen should do so on a use it or lose it basis. **On that basis, 22[3][n] should be deleted [and preferably the whole disgraceful Article].**

#### **Article 23: Discard prevention charging schemes**

Glad to see that “**regulations under this section are subject to the affirmative resolution procedure**”. A very powerful Section and one that causes concern with respect to Article 27[3][b] that provides for the “permitting or requiring charge collectors to use such receipts to cover expenditure incurred by them in carrying out their functions under the Scheme”. The inherent and obvious danger herein is that the subsection provides an incentive to charge collectors to be potentially over enthusiastic in their work as it has a direct bearing on their income. **The least we should strive for is a clearer explanation of this subsection and potentially its removal in the event of an adverse response to the question above.**

#### **Ad hoc comments:**

#### **Article 29: Power of Marine Management Organisation to impose charges:**

Subsection 8 requires that Regulations under this section are subject to the negative resolution procedure. I question why they should not be subject to the positive resolution procedure like some other articles?