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Consultation on a Northern Ireland Marine Bill – Policy Proposals

Thank you for the opportunity to comment on your NI marine bill policy proposals. Here is our contribution.

Introduction

This letter is in response to your consultation above. It is made on behalf of Seafish, a non-departmental public body that provides support to all sectors of the seafood industry. It has no official mandate for involvement in resource or environmental management but has an obvious interest in the outcomes of the management processes. Seafish has a publicly stated commitment to “the sustainable and efficient harvesting of those resources on which the UK seafood industry depends, the protection of marine ecosystems, and the development of marine aquaculture based on sustainable resource utilisation and best environmental practice”.

The questions have been answered by Seafish staff with the appropriate knowledge and expertise, therefore if you need clarification on questions 1 – 12, please contact Phil MacMullen, and for questions 15 - 23 please contact Mark Gray. Their contact details can be found at the bottom of this letter.

SETTING THE SCENE

Q1. Do you agree that change is needed to the management of and legislative framework for managing Northern Ireland’s seas?

Yes, there are increasing numbers of people/industries wishing to make use of the sea. This will lead to an increasing numbers of conflicts. An appropriate system of licensing may help to minimise conflicts and maximise sustainable use of the sea and its resources.

Q2. Do you agree, for each of the following areas, that the Northern Ireland

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Executive should put in place a new legislative and management framework that provides for:

- (a) a new system of marine planning for the sustainable use of Northern Ireland's seas?**
- (b) further streamlining of marine licensing?**
- (c) improvements to marine nature conservation so as to further safeguard and protect Northern Ireland's marine assets?**

We agree to all these in principle, subject to the caveats and suggestions in our response.

Q3. What difference would each of these changes make to your area of interest?

We should first note that commercial sea fishing currently enjoys relatively unrestricted spatial access to all sea areas, subject to the constraints imposed by fisheries and other management regimes. Because of this it is fishing that will suffer most from the proposed legislative provisions relative to other sea users. In order to ensure that the transition to the new framework is as equitable as possible the Executive must be aware that fishermen have been prosecuting a legal activity for many generations and, in business terms, have made very substantial investments in their assets. These comprise mainly their vessels and associated equipment and their fishing entitlements. They may also extend to shore based facilities and, in some cases, processing and logistical infrastructure. Changing the legislative landscape is likely to impact upon the value of these assets.

Whilst we are pleased to see that the Executive recognises the value of the fishing and aquaculture sectors to the NI economy, in term of value adding, employment, etc, this value is the result of the hard-earned investments made by many individual small businessmen – the fishermen themselves. Adverse impacts upon these wealth creators must be taken into account by the Executive.

There may also be related impacts in terms of diet and tourism. Fish makes a very positive contribution to the diet of the local population – confirmed by the Food Standards Agency's '2 a week' advice. If this foodstuff were not caught locally it would need to be brought in at extra cost to the consumer. Such change could limit choice, move income from fishing ports to commercial ports, and increase the amount of shipping and its environmental impact.

The fishing industry also contributes to the local economy in an indirect way via tourism. Visitors like to see small local boats fishing and to eat locally caught fish in local restaurants.

MARINE PLANNING

Q4. What comments would you like to make on the proposed approach that Northern Ireland develops one marine plan, supported by more localised plans where appropriate?

We are pleased to see that NI is fully participating in the development of a MPS and taking the policies of the other UK administrations into account whilst drafting this policy.

Our view is that the Executive should give very careful consideration the issues that result from creating either a single plan, multiple plan areas or some hybrid version involving 'sub-plans'. Each of these options raises different challenges in terms of stakeholder consultation, their

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commitment to the process, flexibility and complexity. Ultimately this is probably an issue that can only be resolved by consultation with local interests.

The over-riding principle that must be accepted is the need for effective co-ordination and consultation between the respective competent bodies at regional, national and international levels.

Q5. What comments would you like to make on the proposed stakeholder involvement in the development of a marine plan?

We are pleased to see wide consultation being carried out at an early stage in the planning process, as well as throughout the process, and also that the impact on the wider community is being considered. However consideration should be given to the types of stakeholders from whom input is needed and how best to engage with them. Fishermen do not respond to the normal consultation process and a face to face approach may be better. Working hours and conditions should also be taken into account so that any meetings do not conflict with fishing opportunities. Consideration should also be given to ongoing dialogue with these groups for subsequent licence applications.

We are also pleased to see that information gathered during the impact assessment will be made available for future applicants, this will reduce the time and cost associated with applications. However it makes it more important to ensure that these initial assessments are correct by using suitable experts and consultation.

Q6. What comments would you like to make on the proposed integration of marine planning with other related, adjacent and/or overlapping plans in Northern Ireland?

As noted in our response to Q4 above it is imperative that there should be effective, 'joined-up' planning between counties, the other UK administrations and NI's other neighbours. Several other states enjoy access to the waters covered by the planning regime under the provisions of the CFP.

We are pleased to see that the impact on the sea of other activities in coastal areas will be considered. Many contamination and other food scares are as a result of activities on land.

Q7. What comments would you like to make on the proposed process for developing a marine plan in Northern Ireland?

We have no comment to make.

MARINE LICENSING AND ENFORCEMENT
Licensing marine activities

Q8. Are there any specific emerging trends, new technologies or novel types of activity which the licensing regime should address?

These are likely to be common to all of the UK administrations so each of the UK licensing regimes must be flexible enough to accommodate the unexpected.

Q9. Do you have any views on the inclusion or exclusion of certain regimes from the scope of the proposed further reforms to licensing of marine activities?

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Legitimate fishing activities that comply with the requirements of CFP are already licensed under that regime so should be exempt from this type of licensing.

Q10. Do you have any views on improvements that might be made to the processing and administration of licensing marine activities, which should be considered throughout the development of proposals for a Northern Ireland Marine Bill?

We advise caution in any trend toward 'type approval' of planning or licence applications. The marine environment, and the complex of conditions and user groups, varies widely by area.

Q11. How can we ensure that the proposals for the Northern Ireland Marine Bill will further reduce the regulatory burdens within Northern Ireland Departments and on business?

We have no comment to make.

Q12. Are there any other key principles that should be considered as part of any further changes to the regulatory system?

We believe that the continuation of existing, legitimate activities should be assumed wherever possible; that shared access to resources and areas should be a guiding principle, and that the Executive and planning/management bodies should always seek to encourage co-operation and 'co-habitation' between sea users. Most individuals and entities involved in introducing the new systems will probably be unaware of the extent to which fishing gears and operations can be modified in order to deliver particular outcomes. Effective consultation will be key to minimising the adverse impacts of the new provisions.

MARINE NATURE CONSERVATION

Q15. Do you agree that a new, flexible mechanism for the designation of Marine Conservation Zones (MCZs) should be introduced in the proposed Northern Ireland Marine Bill?

We recognise the UK Government's commitment to a UK and international MPA network and recommend the introduction of MCZs in Northern Ireland is undertaken with fishermen whose livelihoods depend on the sea and who possess the intimate knowledge required to establish a successful MPA network. We would like to see the DOE follow Scotland and publicly acknowledge the presumption that activities will continue in MPAs unless they are shown to be incompatible with the features of the site¹.

The mechanism for the designation of MCZs must be flexible to accommodate the dynamic nature of the marine environment which is subject to complex exogenous influences including climate change. The distribution of species and some habitats, such as biogenic reefs will change in response to rising sea temperatures and ocean acidification and therefore there is a danger that some areas selected for protection may quite quickly become redundant. The absence of accurate seabed habitat maps (according to the British Geological Survey, only 15% of the UK

¹ Marine Protected Areas in the Seas around Scotland: Conserving Scotland's seas for both people and nature. Scottish Natural Heritage, Marine Scotland, Joint Nature Conservation Committee.

seabed has been properly mapped in respect of ground conditions, habitat types and species assemblages) could lead to alternative sites being identified in the future. Also, the spatial and temporal nature of fishing constantly alters in response to many factors, including fishing regulations, markets for new species, new markets for existing species, development of new gear, and first sale value. Seafish is very concerned that a rigid marine spatial planning system could seriously disadvantage the fishing industry without any ecological benefit, and we call for as much flexibility as possible in the siting and managing of MCZs.

Q16. Do you agree that different MCZs will need to have different conservation objectives?

We expect the conservation objectives will reflect the desired state or condition of the marine features of interest, which will vary according to their current status and aspirations within each site. The target status should accommodate past and current activities in order to set realistic goals and minimise socio-economic constraints whilst contributing to the needs of the MPA network. Whilst we accept there is a case for highly protected areas (sometimes known as No-Take-Zones) for example to undertake scientific research, these areas should be kept to a minimum due to their socio-economic impact. The MCZ conservation objectives must be clear, measurable, and reasonable, for the reasons outlined below.

Objectives must be clear

The key objectives for MPAs should not incorporate uncertain outcomes, but acknowledge from the onset that, for example, the protection of an area deemed to be an important spawning and / or nursery area for commercial shellfish and / or finfish species, may not necessarily lead to an increase in population size. Unlike tropical waters where finfish tend to be more territorial, most commercial finfish targeted by UK fishermen in temperate waters are highly mobile. So MPAs covering spawning and nursery areas, whilst a good thing, would not necessarily increase the spawning stock biomass. A recent study by Polunin 2009² found no effect of protection (through an MPA) on finfish abundance off the Yorkshire coast. Nor was there was no evidence in any of the studies reported in a special issue of the ICES Journal of Marine Science in 2009 that reported on a European Symposium on Marine Protected Areas as a Tool for Fisheries Management and Ecosystem Conservation (Vol 66, No. 1, January 2009) to demonstrate that MPAs benefited finfish populations in temperate waters. Similarly, the authors of a Defra study on MPAs for management of temperate North Atlantic fisheries in 2005³ concluded 'evidence for benefits to temperate finfish inside MPAs is inconsistent' and 'in no case examined has spill over compensated for loss of fishing area'.

Objectives must be measurable

Conservation objectives must be measurable to be able to determine whether favourable conservation status is being achieved. Global environmental influence such as rising sea temperature may, for example, prevent a site feature attaining Favourable Conservation Status (FCS), so we need to be able to identify whether this is the case or not.

Objectives must be reasonable

² Polunin, N.V.C., Bloomfield, H.J., Sweeting, C.J., & McCandless, D.T. 2009. The Effect of Small Prohibited Trawling Areas on the Abundance of Fishes. Final Report to the Esmée Fairbairn Foundation April 2009.

³ Sweeting, C.J., & Polunin, N.V.C. 2005. Marine Protected Areas for Management of Temperate North Atlantic Fisheries. Lessons learned in MPA use for sustainable fisheries exploitation and stock recovery. A report to the Department for Environment, Food and Rural Affairs. 64pp.

The nature conservation aspirations for a site which will determine a site's FCS, need to be reasonable and take account of past economic activity. For example, will the favoured population size of a particular species or extent of a habitat be set at levels known to have occurred before the industrial revolution? Or after the second world war? It must be remembered that marine ecosystems may have been fundamentally altered in structure by fishing, making a return to pre-closure conditions impossible⁴.

In order to ensure that reasonableness prevails, conservation objectives and site management plans need to be developed with stakeholder participation. Fishermen probably know more about the seabed conditions around the UK than most scientists, because they are best placed to observe seasonal and annual trends in the distribution, size and behaviour of habitats and species of conservation interest, and Seafish could help facilitate their collaboration with conservationists.

Q17. Do you agree that, where options exist, a range of factors including social and economic considerations should be taken into account in choosing between sites?

The selection of MCZs must take into account social and economic considerations in order for the Northern Ireland Executive to deliver its pledge to sustainable development as stated in the Sustainable Development Strategy published by all UK administrations in 2005. Selecting MCZs that cause minimal adverse social and economic impact to the fishing industry and possibly deliver benefits, for example by protecting important nursery grounds, will help to engender trust and support from fishermen, who in turn can make a valuable contribution to this work.

Q18. What comments would you like to make on the proposed mechanism to replace legislation for Marine Nature Reserves?

We welcome the replacement of the legislation used to create Marine Nature Reserves providing the proposed MCZ mechanism minimises the impact on the fishing industry and fishing communities; that there is a presumption in favour of fishing unless shown to be incompatible; the designation is flexible to accommodate environmental change and the spatial and temporal nature of fishing; and a simple de-designation process exists for sites that cannot achieve their conservation objective and where replacement sites are more appropriate.

Q19. Do you agree with the proposals for the identification and selection of Marine Conservation Zones and a science-based review of whether new marine species need to be added to the existing list of protected species?

The identification and selection of MCZs needs to be made on sound scientific evidence. Due to the lack of seabed data, we recommend using fishermen's knowledge of the seabed to inform the MCZ survey work. Greater knowledge of habitat and species distribution will allow greater flexibility in MCZ site selection and greater account could therefore be taken of socio-economic implications. There are many examples of fishermen's data being used to inform MPA selection in the UK, including Stanton Bank and Rockall SACs, where a study⁵ of the Rockall Bank SAC

⁴ Sweeting, C.J., & Polunin, N.V.C. 2005. Marine Protected Areas for Management of Temperate North Atlantic Fisheries. Lessons learned in MPA use for sustainable fisheries exploitation and stock recovery. A report to the Department for Environment, Food and Rural Affairs. 64pp.

⁵ Hall-Spencer JM, Tasker M, Soffker M, Christiansen S, Rogers S, Campbell M, Hoydal K (2009) Design of Marine Protected Areas on high seas and territorial waters of Rockall Bank. *Mar Ecol Prog Ser* 397:305-308

selection process concluded '*These sources could not necessarily be relied upon individually to identify suitable closure areas, but when used together, they provide a powerful tool to indicating where such closed areas should be established*'. Work to identify potential SACs to protect deep water corals within the Irish Sea EEZ is using the same effective 'combination' approach. We urge DOE to take advantage of these well-established and mutually advantageous practices of collaboration between conservationists and fishers.

We are encouraged by DOE's commitment to stakeholder participation (#4.50) in agreeing boundaries and setting conservation objectives to management measures. Such valuable contributions, however, will only be made if fishermen believe the DOE's MPA policy is fair, proportionate and inclusive. Building trust is very hard to create but very easy to destroy, and developing meaningful engagement with fishermen takes time. Trust is founded on transparency, understanding, appreciation, respect and collaboration.

The following initiatives may help build up trust:

- Extensive communication with industry (not just industry representatives) on the need to protect marine biodiversity, including the potential benefits afforded by MCZs to commercial species.;
- A commitment by DOE to proactively consider how existing and future fisheries can continue in MCZs, and to encourage industry initiatives to safeguard marine biodiversity - initiatives of the kind that we have seen in fisheries management to great effect (eg real-time closure agreements to protect cod and juvenile whitefish);
- A commitment to compensate those fishermen who lose fishing opportunities as a result of designation of MCZs, by financial assistance, training to diversify, and involvement in the management of MCZs, such as fisheries and environmental monitoring work.

It is highly likely that many habitats and species of national interest probably occur within existing marine nature protected areas, such as European marine sites. Areas designated for activities other than environmental protection could also prove beneficial for marine biodiversity, for example, areas dedicated for wind farms, underwater turbines, MOD use, and those areas currently closed, both permanently and temporarily, for fisheries management purposes. The contribution these areas make to the proposed MPA network in Northern Irish waters should be considered before embarking on the process of selecting new sites. This should be relatively straightforward as the distribution of habitats and species will have been mapped as part of the site selection and EIA process.

We are disappointed to note the lack of a de-designation mechanism. If it is decided that a site will not achieve its conservation objectives, for example the marine feature has moved or deteriorated as a result of an exogenous factor (eg rising water temperature) and another site is deemed more suitable, then clearly the original site should be de-selected. Such a mechanism would be consistent with what has been agreed in England and Scotland (the MPA strategy for Wales is being developed).

With regard to whether new marine species need to be added to the existing list of protected species, species that are commercially exploited are subject to national and European fisheries

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measures. These measures include spatial restrictions and technical measures, for example to protect juveniles and avoid 'growth over fishing' and we would not wish to see new management measures being imposed over and above current management regimes without good evidence.

Q20. What are your views on the introduction of bye-law-making powers for the control of unlicensed activities?

Given that commercial fishing is licensed it would be fair if bye-laws were extended to unlicensed activities.

Q21. Do you consider the range of enforcement tools is adequate for the prevention of marine nature conservation offences and the enforcement of relevant legislation?

We consider the current range of enforcement tools is adequate for marine nature conservation legislation.

We disagree with the suggestion that MCZ boundaries should be '*as simple as possible using a minimum number of straight lines and vertices*' (#4.44). This method of 'boxing' areas of seabed to protect in some cases minority areas of protected sensitive habitat features is archaic. All fishing vessels now routinely use GPS navigational systems and modern boats have, for example, the precise location of power and telecommunication cables recorded onto their GPS to prevent damage to both cables and fishing gear. Recording more closely fitting MPA boundaries would therefore be a straightforward exercise and one which Seafish could easily facilitate through our Kingfisher service.

Q22. Are there alternative regulatory approaches to the control of such activities that we should consider?

We support the intention to involve the industry in the establishment of management measures as greater involvement will improve the credibility and effectiveness the measures and lead to greater support and compliance. An example of such cooperation occurred in SW England recently where local fishermen were brought together to suggest how they thought current fishing activities could be compatible with the draft conservation objectives of the proposed new Natura 2000 sites. The fishermen supported an inshore vessel tracking system that could enforce spatial restrictions and thereby demonstrate compliance with various fisheries management agreements, such as those being proposed in MPAs. Such a system is being developed by Seafish with assistance from a range of stakeholders including English and Welsh fishermen, Defra, regulators (SFCs & MMO), Natural England and Plymouth University. It is anticipated that the technology will empower fishermen to provide assurances to managers that important habitats can be safeguarded from potentially damaging forms of fishing, thus we hope create a more flexible yet secure environment for effective management. The workshop was chaired by Seafish and Natural England is keen to repeat the exercise in other areas.

Q23. Are there any other comments which you would like to make on the proposals contained in this consultation document?

As part of the process to introduce a Designation Order, there should be duty to assess the impact caused by the displacement of fishing effort, which should include the impact on economic interests, social interests, the environment within the protected area and the environment elsewhere in the Northern Irish marine area as a result of activity being displaced. This duty exists in the Marine (Scotland) Act, section 91.

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Displacing fishing activity from MCZs to other areas could negate the ecological benefits afforded by an MPA network. The effects of fishing pressure displacement can be assessed by combining (i) information on habitat distribution; (ii) predicted change in the spatial distribution of effort following management action; and (iii) predicted impact of fishing on habitat⁶. Jennings reported on modelling work to assess the effect of MPA designs on biomass, production and species richness of benthic communities at the scale of the management region (which included MPAs and unprotected areas) undertaken by Hiddink et al⁷, which demonstrated that 'MPA closures of different sizes and in different locations could have positive or negative effects on the aggregate state of benthic communities'. In the absence of fishing effort control, Hiddink predicted that the use of MPAs in lightly fished areas would lead to the largest increases in biomass, production and species richness. The potential consequences of fishing effort displacement highlights the need for a holistic consideration of the benefits and ramifications of MPA designation and management in regional management systems, such as the one proposed in Northern Ireland. MPAs that meet local management objectives may not contribute to meeting objectives set at a regional scale⁸.

I hope that these comments are useful and should you have any questions please do not hesitate to contact me or directly contact the respondent of the specific question.

Yours sincerely

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⁶ Jennings, S. 2009. The role of marine protected areas in environmental management. ICES Journal of Marine Science, 66: 16–21.

⁷ Hiddink, J. G., Hutton, T., Jennings, S., and Kaiser, M. J. 2006. Predicting the effects of area closures and fishing effort restrictions on the production, biomass, and species richness of benthic invertebrate communities. ICES Journal of Marine Science, 63: 822-830.

⁸ Jennings, S. 2009. The role of marine protected areas in environmental management. ICES Journal of Marine Science, 66: 16–21.

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