

## **SEA FISH INDUSTRY AUTHORITY**

Minutes of the

### **Seafish Marine Environmental Legislation Expert Group Meeting**

Held at Seafish Edinburgh 17<sup>th</sup> May 2013

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#### **Present:**

Peter Wilson	Chairman, Seafish
Dale Rodmell	NFFO
Jerry Percy	NUTFA
Claire Tibbott	SAGB and Fishmongers Company
Kenny Coull	SFF
Eamon Murphy	Scottish Government
Steve Colclough	SC2 Limited
Anna Donald	Scottish Government
David Mallon	Scottish Government
Ken Goodlad	Scottish Government
Sarah Horsfall	Seafish

#### **1. Welcome by the Chairman and apologies for absence**

The Chairman welcomed everyone to the meeting. Apologies were received from James Wilson, Mike Park, Jim Evans, Walter Spiers, David Jarrad, Joanna Messini, Steven Bolt, Chris Leftwich, Sandy Cruickshank, Colin Warwick, Malcolm Morrison and Helen Stevens

#### **2. Minutes and Action Points of the meeting held on 22<sup>nd</sup> November 2012**

The minutes were accepted as a true record. All the papers were circulated. All action points had been completed.

### **3. Matters Arising**

#### **3.1 Marine Licensing**

The amendments to the English licensing system have now gone through which included the removal of the need for a licence for aquaculture bouys.

#### **3.2 Shellfish Waters Directive**

There has recently been a consultation in Northern Ireland on proposals for protecting shellfish waters beyond the repeal in 2013 of the SWD. Whilst these proposals are welcome as keeping a level of protection they introduce the concept of a cost benefit analysis which, they say, will be applied to possible future designations, and also the programme of measures of improvement for existing waters. The industry is concerned about this as they maintain that NI has always been reluctant to offer protection to waters and they feel this will make matters worse. The Seafish response was circulated with the agenda.

In the other administrations matters are progressing along the different routes they are pursuing to offer protection. At EU level there has recently been some progress, EFSA issued an opinion which said that WFD was not being implemented in Member States in a way which offered sufficient protection to shellfish waters and as a consequence the European Mollusc Producers Association put forward a resolution to ACFA calling for urgent action from the Commission, this was passed at the last ACFA meeting in March and so we await further progress.

#### **3.3 Marine Strategy Framework Directive Update – Anna Donald, Scottish Government**

Anna said that the MSFD includes aspirational targets which are recognised as not being achievable over the next 6 year cycle. Sarah asked whether their inclusion was leaving the process open to challenge from environmentalists but Scottish Government's view is that a good balance has been struck.

Dale stated that as the biodiversity indicators are so unclear there is a deep concern about what materialises and why there is the political conviction that pressure needs to be reduced when compared with agriculture on land the pressures are in fact very small. Dale felt that the UK not achieving Good Environmental Status is a political decision not based on fact, however Scottish Government say that the evidence base is actually quite strong and based on Charting Progress and data they have from Scotmap.

### **4. Common Fisheries Policy Reform – Ken Goodlad, Scottish Government**

In the last few days the Council has agreed its position and Ken circulated the outcome of proceedings paper (attached). Parliament is already considering this behind closed doors with the meetings planned for the end of the month. With regionalisation the Council is keen for the

Members States to have their own powers with regard to detail but the Parliament wants the detail included in the multi-annual plans.

On discards the Council is keen to push pelagics back to 2015 and introduce flexibility whereas the Parliament wants stricter controls.

Jerry commented that there are some very serious issues, particularly around discards and juveniles and warned that an industry fishing specifically for juveniles must not be allowed to form.

Steve added that the Environment Agency have some excellent data around estuarine spawning areas so this could be valuable information when the protected areas are considered.

The Common Marketing Order is now agreed but the EMFF will go into the Lithuanian presidency which is likely to be under-resourced, and this may lead to problems.

## **5. European Marine Sites**

### **Scotland – Eamon Murphy, Scottish Government**

Scotland now accepts that fishing does constitute a plan or project under the Natura legislation thus necessitating the need for assessment of fisheries in EMSs, but they are taking a more direct and focussed approach than DEFRA. A sensitivity analysis is underway on Scotland's EMSs and will have been completed by the end of this year. It will then be possible to make any management measures clear, although they are reasonably hopeful at this stage that these won't be necessary. If any measures were necessary then the Inshore Fishing Scotland Act would have to be used to legislate. The DEFRA approach has been very thorough but Scottish Government don't have the time or the resources and feel confident that they are able to expedite the approach. Scotland are applying the test contained in Article 6.4 and they then feel there will be no need to apply 6.3 as there will not be a significant pressure.

Sarah asked how confident Scottish Government is that the approach will be robust enough to stand up to challenge and Eamon replied that they were confident that it would be acceptable from an EU point of view.

### **England - Dale Rodmell, NFFO**

Dale informed the group that those areas classified as red by DEFRA and in inshore areas will be dealt with by the end of this year, and there is one bylaw enacted already. With the amber areas management measures are expected to be in place where necessary by the end of 2016. All the progress made and the features matrix are available on the MMO website and Natural England are expected to come forwards with the location of features by the end of June. Of course the full extent of the impact on fisheries will only become apparent when the management measures are

proposed. The matrix does not consider the extent of current activity in the area at present so it is difficult to understand how measures can be based on likely impacts.

## **6. Marine Protected Areas**

### **Scotland – David Mallon, Scottish Government**

Scotland has been engaged in the process of MPA designation under the Marine (Scotland) Act for some time. It started with a science led process with stakeholder involvement. This meant asking scientists where the best locations were and then discussing them with stakeholders. They considered the least damaged sites as they felt these were likely also to be those of least socio-economic importance. 33 sites were proposed in December with 4 search areas. They have been integrated with the existing European sites and designed so that the range of protected features complement existing Natura sites. The policy in Scotland is of sustainable use and that principle is quite important to Scottish Government. The impact assessment and SEA are currently being finalised and they plan to have a 16 week consultation to coincide with the marine planning one starting in July. Final designation will be in 2014 and the proposed sites cover 11% of Scottish waters making 23% protected areas in total. Within the 33 sites there are 4 duplicate sites, these can either be considered as a choice or it can be argued that they should also be designated under the replication principle contained in the OSPAR guidance. An indication of likely management measures will be included in the consultation, but the displacement assessment which is required in Scotland, will be done after the consultation period.

Dale commented that again the Scottish approach was refreshing and that the displacement assessment is a useful addition.

### **England – Sarah Horsfall**

As the group is aware Defra recently held a public consultation on its proposed MCZ sites. They received over 40000 responses many of which were campaign responses but there were still over 1500 substantive ones. They are currently analysing these.

### **Wales - Sarah Horsfall**

#### **Background**

A range of marine habitats and species are currently protected by 125 Marine Protected Areas (MPAs) that cover 36% of Welsh seas. The Marine and Coastal Access Act (2009) (MaCAA) gave the Welsh Ministers powers to designate a new kind of MPA known as Marine Conservation Zones (MCZs). MCZs enable the protection of other nationally important marine features not covered by existing designations to make the MPA network ecologically coherent.

The Welsh Government is obliged to contribute to a coherent and well-managed network of MPAs by 2016 to comply with the Marine Strategy Framework Directive (MSFD) and the requirements of the MaCAA.

#### 2012 MCZ consultation

Following advice from Countryside Council for Wales (CCW) the Welsh Government decided that MCZs should be used to supplement the existing network of sites with a small number of highly protected sites in order to fulfil its network obligations.

In 2012 the Welsh Government consulted on 10 potential options for MCZs to gather information before determining how to take forward MCZs in Wales. The intention was that if any of the proposed were designated they would receive a high level of protection where all the habitats and species within the zones would be protected from all extractive, depositional, damaging or disturbing activities.

The consultation generated 6,708 responses expressing highly divergent and strongly held views. The most contentious element was the proposed high level of protection; many were in favour of the principle of having such sites but coastal communities and businesses thought they would create unacceptable socio-economic impacts with little evidence of the benefits.

#### Reviewing the Approach to MCZs

The Welsh Government set up a Task and Finish Team to review the consultation feedback and the approaches taken by the other UK administrations before recommending how MCZs should be progressed in Wales as part of the wider MPA network. The Task and Finish Team was guided and supported by a Stakeholder Focus Group that represented all the major marine users.

The Task and Finish Team has now submitted a report to the Minister with a proposed way forward for his consideration. The key recommendations are that Welsh Government should:

- Formally withdraw all the site options presented in the 2012 consultation to avoid continued uncertainty amongst coastal communities and businesses.
- Conduct a comprehensive review of Highly Protected sites to provide a clearer understanding of their role and benefits.

- Quantify the current network contribution and determine if there are any shortfalls in the protection of species and habitats that Wales can address with MCZs.
- Identify and select potential MCZs using a clear and transparent process to which both stakeholders and technical experts will contribute.
- Take a risk-based approach to MCZ management where site features are protected from activities that may have an adverse impact.

The task and Finish have proposed a process and a number of cross-cutting themes for the selection of MCZs. In addition to the recommendations on MCZs the Task and Finish Team also concludes that the Welsh Government should:

- Review the effectiveness of the existing MPAs in Welsh seas to ensure they are well managed, valued by the Welsh public and contribute to improvement of the marine environment.
- Integrate marine strategies and consider co-ordinating their delivery in a combined action plan. As part of this approach establish new ways of working that incorporate stakeholders to support effective policy making and delivery at a community level.

## **7. Marine Planning**

### **EU – Sarah Horsfall**

On 13 March 2013, the European Commission published a proposal for a Directive establishing a framework for maritime spatial planning (MSP) and integrated coastal management (ICM) aimed at promoting sustainable growth of maritime and coastal activities and the sustainable use of coastal and marine resources.

The key requirements of this proposed Directive are that Member States:

- establish and implement maritime spatial plans in marine waters (including their offshore waters), and ICM strategies within their coastal zones;
- cooperate with neighboring Member States and third countries which share coastal and marine boundaries;
- promote information and data sharing between Member States, and seek greater coherence between plans and strategies where appropriate, particularly in sea basins; and

- establish a “competent authority or authorities” to facilitate such trans-boundary cooperation.

## **UK Formal position**

The UK position is to work positively with the Commission to explore non-regulatory alternatives for Marine Spatial Planning (MSP) and ICZM, to oppose a directive, but if pressed, to work positively within the context of a directive for a system that will not undermine the implementation of planning within the UK.

### Key messages

- UK fully recognises the benefits of MSP and understands why the Commission are proposing legislative action to ensure effective implementation across the EU.
- Pleased that the Commission have taken on board some of the UK concerns. However the draft is too detailed and prescriptive and goes far beyond what we would expect of a Framework Directive.
- In particular, substantive changes are required to articles 4 (timing), 5 (objectives), 6 (operational steps or targets) and 16 (implementing powers).
- Willing to work with the Commission to resolve these but as currently drafted there is a risk that the proposals could undermine the UK’s current systems and processes and appear to breach proportionality and subsidiarity principles.

### Current state of play:

- Mixed reaction from Member States (MS):
  - o A few MS such as Spain, Portugal, Romania, Slovenia generally in favour
  - o Most other MS are unhappy with certain elements, in particular on ICM, and broadly reflect the UK’s views
- Re progress :
  - o intended that the read through of all articles will happen by end of Irish presidency (ends June then Lithuania comes in)
  - o no decisions will be made during Irish Presidency and instead focusing on initial read through and detailed drafting changes

- o Irish Presidency will probably produce text including a combination of MS opinions and high level drafting changes.

Eamon commented that Scotland is concerned about the need to amend legislation if the proposed directive enters into force and whether there would need to be a separate Integrated Coastal Zone plan produced.

### **Scotland – Anna Donald, Scottish Government**

Anna circulated a paper (see attached). The planning consultation in Scotland will be run at the same time as the MPA one so that any spatial measures can be considered together. Most other aspects of the plan are policy based. It covers all waters out to 200 nautical miles. There will be a GIS platform on the website alongside the consultation which will allow them to display all the information and stakeholder events will run alongside as well. The boundary issues for the regions are expected to go before parliament prior to the summer recess. The proposal is then that each region will have a marine planning partnership.

### **England - Sarah Horsfall**

Over the past few months MMO has been working with government to ensure the draft East Inshore and East Offshore marine plans are ready for the ministerial approval process ahead of public consultation. The draft plans are complete and MMO are now working to finalise the supporting documents, such as the sustainability appraisal.

Public consultation on the draft plans will run for 12 weeks and is anticipated to begin in June. The consultation is expected to include a series of drop-in sessions in various locations along the East coast where the draft plans will be exhibited. These sessions will be an opportunity for those with an interest to come along and speak to a planning officer about the content of the plans.

MMO will be launching an online consultation tool to coincide with the publication of the draft plans, which will allow people to respond to the consultation via the website. This MMO Connect tool will allow consultees to view the draft marine plans and associated documents and provide responses to the consultation questions online.

## **8. AOB**

- 9. **Date of next meeting** – likely to be early October in London