

Welsh Government Response to the report of the Environment and Sustainability Committee entitled Common Fisheries Policy Task and Finish Group inquiry into proposed reforms to the Common Fisheries Policy

April 2012

I would like to thank the Chair of the Common Fisheries Policy (CFP) Task and Finish Group for the views and recommendations presented on the Reform of the Common Fisheries Policy (CFP). I have found the report useful and I would like to put on record my appreciation for the work of the Environment and Sustainability Committee in collecting the evidence and presenting the findings.

In Wales it is our policy to achieve long-term sustainability that will both protect fish stocks and also protect those communities and families that rely on fishing for their livelihoods. The majority of our fisheries are sustainable by their nature with the activity dominated by small scale coastal fishing and a fleet which operates mainly within the inshore zone. It is for this very reason that I believe the particular needs of the inshore sector need to be fully considered within the reform of the Common Fisheries Policy and I am pleased that your findings also echo this view. I believe that the Welsh Government can have a leading role in developing a joined up fisheries policy that will recognise the importance of these fisheries in our coastal communities.

The importance of sustainable fisheries is central to the reform of the CFP and is a point which the European Commission has acknowledged that the existing policy has not necessarily achieved. The reform of the CFP should seek to find a balance in achieving that long-term sustainability between properly managed fish stocks and protecting those communities and families around the Welsh coast that rely on fishing for their livelihoods. I consider this a primary point of principle and is one which will guide my approach to the future development of Welsh fisheries policy. My view is that the Welsh Government's present strategy towards its fishing industry has encouraged the move towards sustainability and I would consider that some of our fisheries are already sustainable by their very nature, especially those of the small boat fleet using static fishing gear around our coastline.

This report by the Environment and Sustainability Committee will provide important information to assist me in taking forward my views in the process of the reform of the Common Fisheries Policy with my Ministerial colleagues in the other UK administrations, in the European Council and also the European Parliament. I would once again like to thank the Committee for its hard work.

I have set out below my response to the individual recommendations of the report.

1. Historic Fishing Rights

The committee recommends that:

That Welsh Government should explore the opportunities for new dialogue with Member State who hold historic fishing rights in Welsh waters.

In its discussions with the UK Government and devolved administrations on the proposals recommend that Welsh Government explore the opportunity for reaching regional agreements to curtail the impact of historic rights in Welsh waters.

Response: Accept

I accept this recommendation. As the Committee has identified reform of historical access by non-UK vessels is currently outside the scope of these proposals. Nevertheless arrangements for the general rules on access to waters and resources post-31 December 2012, particularly on 0-12nm provisions in Article 17 of the current regulation (Council Regulation 2371/2002) need to be addressed. The Commission has given some reassurance that they are considering this important issue and I welcome this move. I would therefore consider we are possibly in a transitional phase of reform in regards to this recurrent problem that has a high profile in Wales.

However, I will seek dialogue with both the Commission and other Member States (Belgium, France and Ireland) who presently have access to the 6-12nm in various parts of Welsh territorial waters on this issue. It may be possible that I can reach agreements whereby Welsh legislation can be introduced which may also be obligatory to those countries effected and which can be directed at single species or specific fisheries such as beam trawling. I shall also ask my officials to examine the possibility of examining this issue via regional fishery organisations to which the Commission is seeking to delegate greater decision making responsibility.

Financial Implications:

None. Any additional administrative costs will be drawn from existing programme budgets.

2. The Marine Strategy Framework Directive (Article 2.4)

The committee recommends that:

That Welsh Government should pursue its discussions and negotiations on the proposals an amendment to article 2.4 to read “the Common Fisheries Policy shall integrate union environmental legislation requirements; contribute to the achievement of good environmental status of EU waters by 2020 and favourable conservation status under Directive 92/43/EEC and Directive 2009/147/EC”.

Response: Accept in Principle

I accept that a new Common Fisheries Policy should seek to integrate its objectives with other regulations in order to ensure a ‘joined up’ approach to management of the marine. At the moment the wording of the Commission proposal is not clear and I

agree that there is a need for clarification on what is exactly meant by 'greater integration' with other environmental regulation. The CFP must stop treating fisheries in isolation from other marine environmental policies.

The Commission proposals clearly include some positive general provisions including the CFP taking into account its interactions with other maritime affairs and that coherence and integration should be achieved through a multi-annual approach to fisheries management. However, the proposals fail to reflect Member State obligations in relation to EU environmental legislation, and the need to join up fisheries management with other measures. Despite the broad, high level objectives, there is no clear process for Member States to propose fisheries measures to ensure the CFP plays its part in delivering environmental objectives such as Good Environmental Status under the Marine Strategy Framework Directive. This is a concern shared by my Ministerial colleagues in the other Administrations and the UK and has fed in specific suggestions through Council Working Group discussions. However, the process is not at the next stage of negotiating the legal text.

But I will be seeking genuine integration through changes to the CFP to enable Wales to develop and implement measures to manage marine ecosystems beyond the 6 nm limit in a more straightforward way. This ties in with my response above on 'historical access' where I could in principal face the situation where I would impose restrictions on UK vessels but not on non-UK vessels operating alongside them. I will therefore strongly support a call for a simplified and decentralised decision making framework that allows those closest to a fishery to take decisions on appropriate management measures.

In regard to achieving or maintaining good environmental status for commercial fish stocks as required by the Marine Strategy Framework Directive 2008/56/EC then I welcome the original objective of the Commission of achieving this by 2020. I also support in principle the aim of other UK administrations and Member States in seeking to work towards Maximum Sustainable Yields (MSY) for stocks by 2015. However, there are a number of challenges which need to be considered when dealing with mixed fisheries (i.e. where vessels pursue many different commercial fish species which swim together and are caught by the same gear). Once I have a clearer idea of what the Commission proposals entail I will consider the appropriateness of your amendment to include reference to favourable conservation status under Directive 92/43/EEC and Directive 2009/147/EC.

Financial Implications:

None, any additional administrative costs will be drawn from existing programme budgets.

3. The Habitats and Birds Directives (Article 12)

The Committee recommends that:

The Welsh Government in its discussions and negotiations on the proposals to advocate that amendments should be made to the text of the proposals as follows:

Article 12.1 to be amended to read “In special areas of conservation within the meaning of Article 6 of Directive 94/43/EEC, of Article 4 of Directive 2009/147/EC and of Article 13 (4) of Directive 2008/56/EC, fishing activities shall be conducted by Member States in such a way as to avoid deterioration of habitats and disturbance of species in such special areas of conservation”.

Article 12.2 to be amended to read “The Commission shall be obliged to adopt delegate acts in accordance with Article 55, to specify fishing related measures to avoid deterioration of habitats and disturbance of species in such special areas of conservation”.

Response: Reject

I am afraid I cannot agree with this recommendation and instead reject both these proposals by the Committee.

I do not consider that outlining obligations under the Habitats and Birds Directives to “avoid deterioration of habitats and disturbance of species” is a suitable inclusion within the Common Fisheries Policy when these requirements on Member States are implicit in Directive 92/43/EEC and Directive 2009/147/EC. A new CFP should, I agree, be in line with these other Regulations but I would not consider it an appropriate instrument to be used in addition to or extension of other these European Directives.

I accept that that certain fishing activities need to be managed when they present a risk to a designated feature or species within a Welsh European Marine Protected Site. The Welsh Government has used this rationale behind its actions in regard to scallop dredging within the Welsh Special Areas of Conservation and Special Protection Areas in accord with Directive 92/43/EEC and Directive 2009/147/EC. Notably Welsh Ministers have this duty under regulation 3(3) of the Conservation (Natural Habitats &c.) Regulations 1994 and Regulation 6(1) of the Offshore Marine Conservation Regulations 2007 to exercise their functions so as to secure compliance with the Habitats Directive.

Therefore, I consider that sufficient tools are already in place to ensure that fishing activities by UK vessels can be sufficiently managed under the existing regulatory framework in Wales and maintain our obligations under the Habitats Directive.

4. Multiannual Plans and Maximum Sustainable Yield (Article 2)

The committee recommends that:

Where possible, that multiannual plans should be adopted by 2015 to bring them in line with the commitment to achieving maximum sustainable yield for fish stocks by 2015 and that the Welsh Government should seek to secure the following amendments to the text of the proposals:

Add a new section 5 to Article 2 stating that Multiannual plans shall, where possible, be adopted by 2015.

In addition, we urge the Welsh Government to seek further clarity from the European Commission about how and when these plans will be developed.

Response: Accept

I agree that we should press for mandatory multi-annual planning for commercial stocks. The Commission is keen to move away from annual management of stocks and develop the long term management plans which aim to achieve MSY in the medium to longer term rather than reflecting annual political pressures.

The other UK administrations all agree with this desire of long term management of stocks however a number of concerns exist over the practical elements of any long term plan. There still remain some questions regarding responsibility for deciding the priorities of plans and the development of technical measures to accompany them. Further information is required from the Commission in this respect. There is also the important point about the paucity of science for many stocks and the complex nature of the multi-species fisheries we find around the Welsh coastline which will make planning very difficult. Science and a robust evidential base are key to the reform of legislation and also to our negotiating role in Europe. I have asked my officials to strengthen the evidence around the key stocks covered by the Common Fisheries Policy and to consider any gaps in other areas as a matter of urgency.

The timeframe for this should be for 2017 which is in line with the position of other UK Ministers and is more realistic.

Financial Implications:

None, any additional administrative costs will be drawn from existing programme budgets

5. Transferable Fishing Concessions (Articles 27-33)

The committee recommends that:

That the system of transferable fishing concession should be voluntary and that the Welsh Government should seek to pursue this in its negotiations on the policy. As a minimum the Welsh Government should seek greater clarity on the application of the proposals to boats with mixed gear and on the safeguards that could be applied to protect and maintain Europe's diverse fishing fleet.

Response: Accept

I share the Committee's concerns that the proposals on 'tradable fishing concessions' does not currently include enough detail for a purposeful discussion. There are many inherent risks that without sufficient safeguards in place may lead to the concentration of fishing rights with a small number of large businesses. This could lead to the detriment of inshore fishing fleet which are important to the coastal communities around Wales.

The Commission believes that there are too many vessels chasing too few fish, but this is mainly an issue with the larger commercial vessels. Smaller scale vessels are

limited in operation by weather and seasonality and the inshore fleet has consistently been disadvantaged by a 'one size fits all' approach. Therefore, it is important that measures involving 'fishing rights' are sufficiently broad to allow countries within Member States to safeguard small scale coastal fisheries. I firmly believe that it should remain the responsibility of the Member State to manage this public resource to its best use.

I consider that the best safeguard would be for the under 10m fleet to be exempted from Transferable Fishing Concessions. In the current proposal under 12m vessels can be exempted except for those that fish with towed gear. This raises a number of issues such as what would happen to those vessels that operate both towed gear and static gear. In this respect I believe that small scale vessels should be exempted based simply on size and not on fishing methods.

Financial Implications:

None, any additional administrative costs will be drawn from existing programme budgets

6. Decentralisation and Regionalisation

The committee recommends that:

We welcome your commitment to the development of fisheries management on a smaller regional scale and recommend that you continue to pursue this issue with other relevant Member States. In addition, recommend that consideration is given to ensuring that the structure of the Advisory Councils in futures enables the voice of coastal fishers and communities to be heard.

Response: Accept

I thank the Committee for its support for my commitment to more localised management especially for our small scale coastal fisheries. A regional approach should allow for better management at both the ecosystem scale and to adapt to local conditions. In this respect I would go as far as to say that the current proposals do not appear to go far enough. Instead it seems the Commission are seeking to promote long-term management plans for species as a way to achieve regionalisation. Unless this model is broken down to a true regional scale it would still remain challenging for Member States to agree plans of this nature. This would result in a model where the Commission would remain the ultimate arbiter of fishing opportunities. This would not result in achieving the aim of decentralising decision making, and in effect offers little change to the current approach.

A regional approach must be responsive to the expertise offered by the relevant Member States and its stakeholders. In such an approach, co-management would involve those stakeholders from the fisheries, taking into account local expertise to develop achievable solutions. I also see considerable merit in developing new joint working arrangements with neighbouring administrations for the Irish Sea waters and the Welsh Fisheries Zone. We share much in common with our neighbours especially the pressure on commercial fish stocks. There are important issues that cannot be

tackled on a 'Wales only' basis and I will look to arrange more formal discussions on this during the summer.

Financial Implications:

None, any additional administrative costs will be drawn from existing programme budgets

7. Discards

The committee recommends that:

All catches of the following fish stocks subject to catch limits caught during fishing activities in Union waters or by Union fishing vessels outside Union waters shall be brought and retained on board fishing vessels and recorded and landed except where used as live bait or where unwanted catch can be returned alive.

Response: Accept

I believe it is safe to say that everyone wishes to see an end to discards. The creation of this problem is an obvious failing of the existing CFP and one of the main drivers towards change and I fully support the Commissions aim to eliminate this wholly unacceptable practice. However, I am sceptical about the Commissions timetable and it is obvious a simple blanket ban in the short term will be unworkable. Most glaring is the absence of any stakeholder buy-in to solve the problem. The ban on discards should be gradually implemented allowing further research and preparation. The main problems I face in Wales arise as a result of our vessels engaging in mixed fisheries, notably for plaice, megrims, anglerfish, haddock, whiting and nephrops.

A sensible approach must be taken with a flexible regulatory framework developed that will drive the necessary changes in fishing activity and behaviour. This means working with fishers to introduce a range of tailored discard reduction measures that are genuinely effective and enforceable. Further support must be given to improvements in fishing gear selectivity. I recognise the fact that fishermen need to be incentivised to fish responsibly and that there should be rewards the right behaviours, this may be done by allocating vessels extra quota or days at sea.

Further details are required from the Commission as to how this obligation will work in practice. It appears that the way in which we have traditionally approached minimum landing sizes of fish is set to change. There is a risk that this will require a large reworking of national and Welsh legislation.

Financial Implications:

It is unclear at this stage what resources will be necessary to enforce the requirement that fish below the "Minimum conservation reference size" must be landed. It is likely that additional resources will be required to further supplement the Fisheries Science budget.

8. Data Collection (Article 37 and the European Maritime and Fisheries Fund (EMFF))

The committee recommends that:

Strongly welcome the proposals in the EMFF Regulations to enable Member States to support these kinds of projects and recommend that the Welsh Government utilise any future funds provided to it under the EMFF to support this type of work in Wales. To replicate the good practice illustrated in the Fish Map Mon project across Wales.

In addition, that the proposals are amended as follows:

Member States shall ensure the national coordination of the collection and management of scientific data for fisheries management and shall produce multiannual plans for data collection. To this end they shall designate a national correspondent and organise an annual national coordination meeting. The Commission shall be informed of the national coordination activities and of the production of multi annual plans and be invited to the coordination of meetings.

Response: Accept

The budget allocation for EMFF for the 2014-2020 programmes is structured in such a way as to provide support for government in delivering sustainability for fisheries. As I have already mentioned science and a robust evidential base are key to delivering this idea. I will certainly ensure that this will be aimed at delivering benefits to the whole ecosystem and not only single species conservation. I will therefore look to EMFF providing a balanced funding package to include the generic science base and filling the knowledge gaps we have in Wales.

I also support what you have to say in regard to Member States ensuring coordination of the collection and management of scientific data for fisheries management and producing coherent plans for data collection. However, I am unsure how this will work in practice. There are various options that I will need to explore.

Financial Implications:

None, any additional administrative costs will be drawn from existing programme budgets

9. Aquaculture

The committee recommends that:

In light of views expressed to the Group by the industry we would ask the Welsh Government to reconsider its position on this element of the proposals.

Response: Accept in principle.

I agree that there is a role in Welsh Government supporting the aquaculture sector but I remain sceptical that this should be as a result of increased regulation or intervention measures under a new CFP. Additionally I cannot see how central direction from the EU can add value to management. The delegation of such powers to the Commission

and existence of a plethora of regulatory requirements were at the heart of many of the problems created to the seafish fleet and industry. We would not wish to see a culture of similar regulatory 'support measures' repeated in aquaculture. I therefore continue to believe that aquaculture should remain within the remit of the national competence.

However, I do support the view of the Committee to develop the Welsh aquaculture strategy. We have great successes in Wales in regard to aquaculture and it is at the heart of our long term strategy. But the future role for the Welsh government should be in promoting product value through the rules around traceability, labelling and standards rather than market support measures. I see EMFF as having a central role in this especially in support of Welsh aquaculture developments.

Aquaculture is already subject to many environmental safeguards and Directives and I remain unclear as to what could be gained to Welsh producers from extra control and regulation from the Commission.

Financial Implications:

None, any additional administrative costs will be drawn from existing programme budgets

10. Proposals for a European Maritime Fisheries Fund

The committee recommends that:

We hope the four elements of higher aid intensity rates, business and marketing support for the small scale coastal fleet, coastal business start ups and representative organisation of the small scale coastal fleet to enable them to engage in CFP dialogue remains part of the EMFF and strongly encourage you to support them in the negotiation process.

Response: Accept

The new EMFF could deliver many of the benefits recognised by the Committee in its findings and I am pleased that Welsh stakeholders' wishes are in line with those of Government. With such shared goals I am sure we can develop a package of measures which will provide real benefits to our coastal communities and the fishermen who play such an important role in them.

Financial Implications:

None, any additional administrative costs will be drawn from existing programme budgets