

Report on the Legislative Consent Memorandum in relation to the UK Fisheries Bill

February 2019



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Report on the Legislative Consent Memorandum in relation to the UK Fisheries Bill

February 2019



About the Committee

The Committee was established on 28 June 2016. Its remit can be found at:
www.assembly.wales/SeneddCCERA

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Welsh Labour
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Mid and West Wales



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The following Member was also a member of the Committee during this inquiry



Jayne Bryant AM
Welsh Labour
Newport West

Contents

Conclusions and recommendation.....	5
Recommendation	10
Introduction	11
1. The UK Fisheries Bill and the Legislative Consent Memorandum (LCM).....	12
2. The need for legislation and the approach taken.....	15
3. Fisheries objectives.....	24
4. Fisheries statements	32
5. Access to British fisheries	37
6. Fishing opportunities and quota share	43
7. Financial assistance powers and future funding.....	53
8. Access to markets	60
9. Discard prevention charging schemes	64
Annex A: Written evidence	66
Annex B: Oral Evidence.....	67

Conclusions and recommendation

The key provisions in the UK Fisheries Bill, for example, the fisheries objectives and the Joint Fisheries Statement, are designed to ensure a common approach to fisheries across the UK post-Brexit. These provisions will apply equally to the UK administrations. It is therefore neither appropriate nor desirable to seek to amend these provisions only in relation to Wales. Notwithstanding this, we heard compelling evidence that, unless these provisions are strengthened, the UK Bill will struggle to deliver its intentions.

Given the above, where our recommendations for amendments would apply other than in relation to Wales, we expect the Welsh Government to engage with the other UK administrations with the aim of securing those amendments.

The need for legislation and the approach taken

Conclusion 1. The Welsh Government should explain why it has failed to fulfil commitments it has previously given to this Committee in relation to the development of UK common frameworks. In particular, it should explain why the UK Bill was not developed in collaboration and why stakeholders were not involved at a sufficiently early stage in its development. We remain to be convinced that the Intergovernmental Agreement is fit for purpose. Page 22

Conclusion 2. In future, we expect the Welsh Government to make a statement to the Assembly to coincide with the introduction of any UK Brexit-related Bills which legislate in relation to Wales. Page 22

In addition, we expect the Welsh Government to make public its position on the relevant provisions in any such Bills, identify the powers that are being sought, when these powers are required, and how they will be used. It should also differentiate between powers that are necessary in the immediate post-Brexit period, and those which will be used to implement future policy. Page 22

Conclusion 3. We acknowledge that legislation is needed to establish a UK common framework for fisheries management after Brexit. We are content that many of the provisions in the UK Bill are necessary to achieve this. However, the Bill contains additional provisions which exceed those which are necessary to establish such a framework. The Welsh Government has not explained the purpose and effect of these additional provisions. As such, we are not yet convinced that the Welsh Government has provided adequate justification for the additional powers it is seeking via the UK Bill. Page 22

Conclusion 4. To address the concerns in Conclusion 3, the Welsh Government should explain the purpose and intended effect of the executive powers for Welsh Ministers in Schedules 4, 6 and 7. It should identify which of these powers are time-critical, and whether any of the powers could reasonably be deferred until the Assembly’s competence has been extended to allow for a future Welsh fisheries Bill to be introduced..... Page 23

Conclusion 5. The Welsh Government has control over its legislative programme. It should give a commitment that time will be made available in the legislative programme for a Welsh fisheries Bill to be brought forward and passed before the end of the Fifth Assembly. Page 23

Conclusion 6. The Welsh Government should explain how it will ensure that the Assembly’s views are reflected in the UK Bill, given the lack of time available before the UK Bill completes its passage through Parliament..... Page 23

Fisheries statements

Conclusion 7. We are broadly content with the fisheries objectives, subject to a commitment that the JFS will include milestones and, where appropriate, specific and ambitious targets, against which progress can be measured. These should be developed by the UK administrations in collaboration and should include a requirement not to exceed Maximum Sustainable Yield limits. We expect the Welsh Government to take this forward as part of its ongoing discussions on the JFS..... Page 30

Conclusion 8. Within 6 years of the passing of the UK Bill, the UK administrations should undertake a joint review of the fisheries objectives to ensure they are fit for purpose. We expect the Welsh Government to take this forward with the other UK administrations with a view to ensuring that arrangements for reviewing the objectives are included in the UK Bill. If agreement for this cannot be reached, we expect a commitment to undertake a review to be included in the Fisheries Management Framework Agreement..... Page 30

Conclusion 9. As part of its *Brexit and Our Seas* consultation, the Welsh Government should explore whether it is appropriate to include in a future Welsh fisheries Bill a duty on Welsh Ministers to take all reasonable steps to achieve the fisheries objectives..... Page 30

Fisheries objectives

Conclusion 10. The UK Bill should be amended to include 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. We expect the Welsh Government to make representations to the UK Government and other devolved administrations in this regard. Page 35

If agreement cannot be reached, the Welsh Government should give a commitment that it will report to the Assembly on a three-yearly basis beginning from the date on which the first JFS is published. This report should use the policies set out in the JFS as a reference point and should measure progress against the fisheries objectives and other relevant objectives, such as those included in Welsh legislation..... Page 35

Conclusion 11. The Welsh Government has yet to explain the purpose and proposed content of the Fisheries Management Framework Agreement. This will underpin the operation of the fisheries framework. It is difficult for the Assembly to make a judgement about the appropriateness of consent without this information. The Welsh Government should provide further details as a matter of urgency. It should explain what opportunities will be available for stakeholders to inform the development of the Agreement and how it can be scrutinised by the Assembly. The Welsh Government should publish the Agreement at the earliest opportunity..... Page 35

Access to British fisheries

Conclusion 12. The Welsh Government must ensure that the interests of Welsh fisheries are represented fully in discussions about access to markets and future trade deals with the EU..... Page 42

Conclusion 13. The Welsh Government should provide further details on the proposal for the Marine Management Organisation to issue a single licence to foreign fishing vessels. The Welsh Government should clarify how this would impact on its power to grant licences, in particular, the ability of Welsh Ministers to impose specific licence conditions on foreign fishing boats in relation to the Welsh zone. For example, to require onboard CCTV monitoring. Page 42

Conclusion 14. The Welsh Government should provide further details about how it intends to use licensing conditions for UK vessels to secure adherence to environmental standards in the Welsh zone. In particular, the Welsh Government should set out how licence conditions will be used to address plastic pollution and other, related matters..... Page 42

Conclusion 15. The Welsh Government should explain the circumstances in which it envisages the Secretary of State will use the powers in clauses 9 and 11, to change the exceptions to the prohibition of British or foreign vessels to fish in British waters without a licence. The Welsh Government should explain how any potential disputes over the exercise of these powers will be resolved. As a minimum, we expect a dispute resolution mechanism to be included in the Fisheries Management Framework Agreement..... Page 42

Fishing opportunities and quota share

Conclusion 16. The UK Bill constitutes a missed opportunity to rebalance a fundamental unfairness in the allocation of UK quota. If this is not addressed, there will be marginal benefits for Welsh fisheries as a result of Brexit. Page 51

Conclusion 17. We suggest the following as a fair and sustainable approach to the allocation of UK quota in future:..... Page 51

Firstly, Article 17 of the CFP (which is amended by UK Bill) should be amended to address the deficiencies identified by stakeholders. In particular, that too much emphasis is given to historic catch when allocating quota at the expense of environmental, social and economic criteria..... Page 51

Secondly, the Fisheries Concordat should be reviewed to reflect an increased emphasis on environmental, social and economic criteria when allocating quota to the constituent nations of the UK. The Welsh Government should take full advantage of any future review of the Fisheries Concordat to secure an increase in Wales' quota allocation..... Page 52

We expect the Welsh Government to engage with the UK administrations to this effect..... Page 52

Conclusion 18. Any new quota arising from Brexit should be allocated in accordance with environmental, social and economic criteria, with a view to addressing the imbalance in Wales' quota share. Page 52

Conclusion 19. We share the Welsh Government’s concerns about the extent of the Secretary of State’s powers in relation to the determination of fishing opportunities. We note that this is a “red line” for the Minister. We believe the most appropriate way to address this issue is by an amendment to the UK Bill. Page 52

Conclusion 20. We are not persuaded that the Welsh Government has done enough, up to now, to secure a fair share of quota allocation for Welsh fisheries. The Fisheries Concordat 2012 constrained the sector’s growth and disadvantaged Welsh fisheries severely. As the UK leaves the EU, we believe the Welsh Government must do more. We expect the Minister to provide clear evidence of the steps she is taking to secure improvements in Wales’ quota share. Page 52

Financial assistance powers and future funding

Conclusion 21. The UK Bill should be amended to require Welsh Ministers to consult on proposals for any future financial assistance scheme established under Schedule 4 . We expect the Welsh Government to make representations to the UK Government in this regard. Page 58

Conclusion 22. There is merit in ensuring that any future financial support scheme is underpinned by the fisheries objectives. We believe that this should be considered as part of the Welsh Government’s *Brexit and Our Seas* consultation and should, if appropriate, form part of a future Welsh fisheries Bill. Page 58

Conclusion 23. The Welsh Government should seek a commitment from the UK Government that future funding arrangements for the fisheries sector will be developed in partnership with the devolved administrations and that there will be parity of esteem between partners. It should also seek a commitment that the level of funding should take account of any additional costs arising from the UK Bill. Page 58

Conclusion 24. There has been a severe lack of financial information provided in support of this, and other, Brexit-related LCMs that this Committee has been asked to consider. This has impaired scrutiny. Furthermore, the absence of such information risks misleading the Assembly about the potential financial implications arising from the legislation. The Welsh Government must address this matter. If it will not do so, we will request that the Finance Committee consider this and, if necessary, bring forward appropriate amendments to Standing Orders. Page 58

Access to markets

Conclusion 25. We reiterate the recommendation in our report *The impact of Brexit on fisheries in Wales*, that the Welsh Government should publish a focused and ambitious strategy to grow Welsh fisheries. The Welsh Government’s consultation, *Brexit and our Seas*, will be published in March, and the outcome of this will inform the development of future fisheries policy. We expect the consultation to reflect the latest Brexit developments and to include proposals to mitigate the associated risks. In addition, the consultation should explore ways to support coastal communities, including through a requirement for a proportion of fish caught in the Welsh zone to be landed in Welsh ports.....Page 63

Discard prevention charging schemes

Conclusion 26. The Welsh Government should consider, as part of its *Brexit and Our Seas* consultation, whether it would be appropriate to bring forward a discard prevention charging scheme in a future Welsh fisheries Bill.....Page 65

Recommendation

We recommend to the Assembly that it gives consent to the provisions in the UK Fisheries Bill, subject to the following conditions:

The Welsh Government should seek amendments to the UK Bill to give effect to conclusions 8, 10, 18, 20 and 22; and

The Welsh Government should give commitments to the Assembly, or clarification where appropriate, in relation to the issues raised in conclusions 1, 4, 5, 6, 7, 9, 12, 14, 15, 16, 24 and 25.

The Welsh Government should respond to the Committee’s conclusions at least ten working days in advance of the Plenary debate on the Legislative Consent Memorandum. This will enable the Assembly to decide whether the concerns raised in our report have been addressed to an extent that warrants consent being given.

Introduction

Our approach

- 1.** On 15 November 2018, Lesley Griffiths AM, Minister for Environment, Energy and Rural Affairs (the Minister), laid before the Assembly a **Legislative Consent Memorandum (LCM) in relation to the UK Government's Fisheries Bill** (the UK Bill).
- 2.** On 27 November 2018, the Business Committee referred the LCM to the Climate Change, Environment and Rural Affairs Committee ('this Committee'), the Constitutional and Legislative Affairs Committee and the External Affairs and Additional Legislation Committee and set a reporting deadline of 12 February 2019.
- 3.** On 10 January 2019, the Minister laid a **Supplementary LCM**, which the Business Committee also referred to this Committee, with the same reporting deadline.
- 4.** We issued a call for evidence on the UK Bill and on the specific Welsh provisions within it.
- 5.** We took evidence from academics and representatives from the fisheries and environmental sectors.
- 6.** We took evidence from the Minister and her officials on 24 January 2019.

Committee report, *The impact of Brexit on fisheries in Wales*

- 7.** In October 2018, this Committee published its report, *The impact of Brexit on Welsh fisheries*.

1. The UK Fisheries Bill and the Legislative Consent Memorandum (LCM)

The Common Fisheries Policy

8. For over 40 years, fisheries policy has operated in accordance with the EU's Common Fisheries Policy (CFP). Although fisheries management is a devolved matter, its extent outside 12 nautical miles (nm) has been limited largely to the administration of these agreements.

9. Broadly, the CFP covers the following issues:

- Shared access for EU fishing vessels to Member States' Exclusive Economic Zones (EEZ - 12-200nm);
- Total Allowable Catch (TAC) and fishing opportunities for key fish stock for Member States;
- Representation of Member States in negotiations with third countries and in international fisheries agreements; and
- Directly applicable fisheries management legislation, including on detailed technical measures, and control and enforcement.

10. Currently, it is the UK Government, representing the UK as a Member State, that negotiates with the EU on matters relating to the CFP. Similarly, the UK Government will continue to be bound by the requirements under the United Nations Convention on the Law of the Sea (UNCLOS).

11. Under all Brexit scenarios, the UK will leave the CFP.

The UK Government's Fisheries Bill

12. The Explanatory Notes (Notes) accompanying the UK Fisheries Bill (the UK Bill) state that the Bill will "provide the legal framework for the United Kingdom to operate as an independent coastal state" after the UK has left the EU and the CFP. The Notes explain that the Bill:

"creates common approaches to fisheries management between the UK government and the Devolved Administrations, known collectively

as the Fisheries Administrations, and makes reforms to fisheries management in England.”¹

The LCM

13. The Assembly’s consent is sought for the following provisions in the UK Bill (as introduced), so far as they apply in relation to Wales:

- Clauses 1 to 6 (Fisheries objectives and fisheries statements) and Schedule 1 (Fisheries statements: preparation and publication);
- Clauses 7 and 8 (Access to British fisheries);
- Clauses 9 to 13 (Licensing of fishing boats) and Schedule 2 (Sea fishing licences: further provision);
- Clauses 14 to 17 (Access and licensing: offences and consequential amendments) and Schedule 3 (Access and licensing: consequential amendments);
- Clauses 18 to 21 (Fishing opportunities);
- Clauses 28 and 30 (Grants and charges) and Schedule 4 (Financial Assistance); and
- Clauses 31 to 38 (Powers to make further provision), Schedule 6 (Powers to make further provision: Devolved Authorities) and Schedule 7 (Powers relating to the exploitation of sea fisheries resources).

14. The LCM explains why the Welsh Government believes it is appropriate for the above provisions to be included in the UK Bill:

“The Fisheries Bill creates the primary legislative elements of the UK Framework for fisheries management and support post EU Exit. These provisions could only appropriately be applied through a UK Bill, providing a uniform set of powers, obligations and objectives.

With exit from the EU in March 2019 there is no time for a suitable legislative vehicle to pass through the Assembly. Any such Assembly Bill would also only be able to deal with the necessary administrative arrangements in relation to Wales and the proposed UK Fisheries Bill

¹ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0278/en/18278en01.htm>

provides powers for the Welsh Ministers in relation to Wales, the Welsh zone and Welsh fishing boats beyond that zone as appropriate,

With the current devolution arrangements an Act of the Assembly would not be able to make all of the provisions necessary for the coherence of the Bill. This would leave us relying in part on the UK Fisheries Bill and in part on a Welsh Fisheries Bill.”

15. The LCM states that the Welsh Government is “generally supportive of the Bill as drafted, other than clause 18 (Power of Secretary of State to determine fishing opportunities)”. This issue is explored further in Chapter 6.

The Supplementary LCM

16. The Supplementary LCM sets out amendments made to the UK Bill during committee stage in the House of Commons. Some of these are technical in nature (for example, additional consequential amendments). However, the following substantive amendments were made:

- New Clause 39² (Legislative competence of the National Assembly for Wales) extends the Assembly’s legislative competence beyond 12nm, so as to include the Welsh zone. This would align the Assembly’s legislative competence with the Welsh Ministers’ executive powers.
- At the request of the Welsh Government, Schedule 3 was amended to include amendments to the Sea Fishing (Licences and Notices) Regulations 1994. These Regulations still apply in Wales and these amendments enable changes in licences and notices to be notified to licence holders by publication on a website. The equivalent English, Scottish and Northern Irish Licences and Notices legislation has already been amended to this effect.

² In the UK Bill, as amended in Public Bill Committee.

2. The need for legislation and the approach taken

The primary purpose of the UK Bill is to establish a UK-wide framework for fisheries management after Brexit.

17. Following the UK's departure from the EU, the UK will no longer be part of the EU's CFP. It will become an independent coastal state and be fully responsible for managing fisheries in the UK's Exclusive Economic Zone (EEZ) of 12–200 nm. In all Brexit scenarios, the UK will continue to be bound by the requirements of the UNCLOS.

18. The EU Withdrawal Act 2018 (the 2018 Act) includes provision for transposing existing EU fisheries regulations into UK legislation.

19. The UK Fisheries Bill is the first common framework under the Intergovernmental Agreement on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks and the first to be established through primary legislation. It provides the UK Government with powers to determine fishing opportunities for UK waters, and provides the UK Government and devolved administrations with powers in relation to fisheries. In addition, it will revoke or amend a number of Articles in the CFP Regulations.

20. The UK Bill includes extensive delegated powers for the Secretary of State. In many cases, corresponding powers are conferred on Welsh Ministers (and other devolved administrations). For example, power to grant sea fishing licences, power to provide financial assistance to the fishing industry, and power to amend UK law (including retained EU law) for listed fisheries purposes and in relation to listed fisheries matters.

Evidence from stakeholders

21. There was widespread support from stakeholders for the UK Bill as a means of establishing a UK common framework for fisheries management post-Brexit.

22. Professor Barnes from the University of Hull referred to the UK Bill as “quite a well-structured piece of legislation”, which “[tried] to achieve a balance between central UK Government and the devolved administrations”. He explained that the Bill would establish a joint framework, to be developed collaboratively by the different UK administrations. Notwithstanding this, Professor Barnes stated:

“...whilst the legal framework is there...ultimately, many of these decisions are going to be done outside of the legal process—they’re going to be negotiated. And the question is then: are the provisions sufficiently well drafted, are there sufficient commitments in place, to ensure that that political process is conducted fairly and transparently?”³

23. Stakeholders were broadly content that the UK Bill struck the right balance between ensuring a common approach across the UK, where required, whilst successfully respecting the devolution settlement. Griffin Carpenter of the New Economics Foundation said that the approach taken in the UK Bill “leaves much fisheries management up to the fisheries administrations including the Welsh Government...”⁴

Fisheries Management Framework Agreement

24. The Supplementary LCM refers to a “Fisheries Management Framework Agreement”, which it describes as an agreement “which all of the UK fisheries administrations intend to agree as we exit the European Union”.⁵

Scrutiny and transparency

25. Jon Parker of CamNesa Consultancy pointed out that there had been no formal consultation on policy or legislative proposals for fisheries in Wales post-Brexit. He noted that the Welsh Government was due to publish its consultation, *Brexit and our Seas*, shortly.

26. In reference to the extent to which it was reasonable and appropriate for the UK Bill to confer extensive delegated powers on Welsh Ministers, the Welsh Fisherman’s Association (WFA) said there was “not much choice, given the timescales”.⁶ Although Wales Environment Link (WEL) did not comment on the appropriateness of conferring powers in this way, it emphasised the need to consider the time that was available to put appropriate legislation in place.⁷

27. Several stakeholders highlighted the importance of an appropriate level of scrutiny to ensure the conferred powers were exercised reasonably and appropriately. WEL and Greener UK pointed out they could be used to “[make] major changes to fisheries management measures]”. They believed that “a formal

³ RoP, para 13, 16 January 2019

⁴ Written Evidence, New Economics Foundation

⁵ www.assembly.wales/laid%20documents/lcm-ld12027/lcm-ld12027-e.pdf

⁶ RoP, 142, 16 January 2019

⁷ RoP, 272-275, 16 January 2019

consultation procedure should be established with wide stakeholder engagement prior to new policies and legislation being introduced”. A similar view was expressed by the New Under Ten Fishermen’s Association (NUTFA).⁸

The Assembly’s legislative competence and a future Wales fisheries Bill

28. The Supplementary LCM sets out the Welsh Government’s view on the new clause 39, and states:

“Securing this amendment in the Bill is a significant constitutional step forward and will enable the National Assembly for Wales to bring forward an Assembly Fisheries Bill in relation to Wales, the Welsh zone and Welsh fishing boats beyond that zone in future.”

29. During Parliamentary proceedings on the UK Bill, George Eustice MP, the Minister of State at the Department for Environment, Food and Rural Affairs (Defra) referred to these provisions and said:

“I can indeed confirm that we have developed the new clause in conversation with the Welsh Government. It was a specific request that they made after the Bill had been published and as it approached Second Reading, and we needed to go through the Government write-round process to get agreement to make the change. Obviously, there was earlier legislation as recently as two years ago in which Executive competence was given to the Welsh Government. At that point, they did not ask for legislative competence; I think everybody can agree that that was probably an oversight at the time and it is now important that they have that legislative competence.”⁹

30. Several stakeholders, including the WFA and Griffin Carpenter, noted that the UK Bill was a piece of framework legislation and, therefore, did not set out detailed future policies. The WFA suggested it was difficult to assess the need for a future Welsh fisheries Bill until “we have defined our policy”.¹⁰

⁸ RoP, 144, 16 January 2019

⁹ https://publications.parliament.uk/pa/cm201719/cmpublic/Fisheries/PBC278_Fisheries_1st-10th%20pt2_Combined_17_12_2018.pdf

¹⁰ Written evidence, Welsh Fisherman’s Association

Evidence from the Minister

31. The Minister explained that Welsh Government officials had not been involved in the development of the UK Bill “at a level [she] would have liked”.¹¹ However, since the UK Bill had been introduced, the level of engagement between the UK Government and Welsh Government had improved and there had been “significant improvements to the Bill due to [the Welsh Government’s] input”.¹² For example, an amendment to the UK Bill (at new clause 39) which will extend the Assembly’s legislative competence in relation to fisheries.

32. In relation to the extent to which the UK Bill includes provisions that are additional to those necessary to establish a UK common framework for fisheries, the Minister stated:

“The Bill provides a comprehensive suite of fishery management powers for the UK, including a wide range of powers for the Welsh Ministers...”¹³

33. The Minister explained that she had requested powers contained in Schedule 4 (Financial Assistance), Schedule 6 (Power to make further provisions: Devolved Authorities) and Schedule 7 (Powers relating to the exploitation of sea fisheries resources). She said these powers “could not have been included in their current form in a Welsh Bill”¹⁴ because the Assembly does not currently have legislative competence for the area of the Welsh zone which lies beyond Wales. This would be addressed by the addition by amendment of clause 39 in the UK Bill, which would extend the Assembly’s legislative competence.

34. The Minister emphasised that the extension of the Assembly’s legislative competence “will not be guaranteed” until the UK Bill is enacted. She therefore considered it “prudent to pursue all necessary powers for the Welsh Ministers in the UK Fisheries Bill”.¹⁵

35. In reference to those powers in the UK Bill that extend beyond the establishment of a UK common framework, the Minister explained that, if these powers were not included in the UK Bill, “Welsh Government would have a

¹¹ RoP, para 7, 24 January 2019

¹² RoP, para 8, 24 January 2019

¹³ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

¹⁴ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

¹⁵ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

narrower range of powers to manage our marine environment and fish stocks than the other Fisheries Administrations”. This would “hamper [the Welsh’ Government’s] ability to effectively manage our marine environment following EU exit”.¹⁶

36. When asked to clarify whether she intended to bring forward a Welsh fisheries Bill, the Minister stated:

“At the moment, I would say I fully intend to bring one. It’s just the timing of it.”¹⁷

37. She subsequently confirmed it was her intention for a Welsh fisheries Bill to be passed before the end of this Assembly.¹⁸

38. The Minister confirmed that she would consider representations made by both this Committee and CLA Committee, and “as appropriate, would seek further discussions with UK Government to ensure the Bill meets Welsh needs”. Notwithstanding this, she explained that “further opportunities to influence the Bill may be scarce”, because of its accelerated Parliamentary timetable.¹⁹

39. In correspondence with the Committee, the Minister said that the Fisheries Management Framework Agreement will set out the shared objectives of the UK fisheries policy authorities. She said that the framework agreement will “be underpinned by a range of memoranda of understanding detailing how the policy authorities will work together. These will be supported by effective joint governance mechanisms and suitable dispute resolution mechanisms”.²⁰

Our view

For over 40 years, fisheries policy in Wales has been governed primarily at an EU level. Exiting the EU and the CFP provides a unique opportunity for the Welsh Government to rethink its approach to fisheries policy: to reaffirm its

¹⁶ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

¹⁷ RoP, para 29, 24 January 2019

¹⁸ RoP, para 31-33, 24 January 2019

¹⁹ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

²⁰ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

commitment to sustainable fisheries management, and to seek ways to improve and develop the fisheries industry in Wales.

The UK Fisheries Bill will provide the foundations for future Welsh fisheries policy. It is essential therefore, that the provisions in the UK Bill are appropriate and workable within the context of devolution, and will enable the development of policy that meets the distinct needs of Welsh fisheries post-Brexit.

The UK Bill is the first legislative common framework to be introduced under the *Intergovernmental Agreement on the European Union (Withdrawal) Bill and the Established Common Frameworks*.

This Committee reached several conclusions in relation to the development of UK common frameworks in its report, *Common frameworks for the environment after Brexit* (July 2018). Those conclusions are directly applicable to the UK Fisheries Bill.

Inter-governmental cooperation

As the Committee made clear in the above report, leaving the EU will necessitate new intergovernmental relationships.

The Committee was clear that a shared governance model will be necessary, with parity of status for each of the constituent parts of the UK. The Committee emphasised the need for: independent dispute resolution; arbitration and adjudication mechanisms; and transparency and accountability.

The Committee concluded it would wish to see more evidence of effective intergovernmental collaboration between the UK and Welsh governments in the development of common frameworks.

The Committee expressed similar views in its report, *The future of land management in Wales* (March, 2017) and *Report on the LCM in relation to the UK Agriculture Bill* (January 2019).

Transparency and scrutiny

The Committee concluded that it is important that, “during these detailed discussions about rules and structures, governments do not lose sight of the role and rights of the citizen. We agree with our stakeholders that we must secure opportunities for citizens, business and civil society to engage in the policy-making and implementation process”.

Development of the UK Fisheries Bill

In her [response to this Committee's report on Common Frameworks for the Environment after Brexit](#) (July 2018), the Minister said:

"The Inter-Governmental Agreement ensures that the development of all Common Frameworks is undertaken collaboratively."

This was not the case for the UK Bill. We believe that this is unacceptable. Despite the Minister's comments to the contrary, it is evident that the Intergovernmental Agreement has not worked as envisaged. This does not bode well for the successful implementation and continuing operation of the UK Bill's key provisions, which rely on joint working and intergovernmental collaboration. This will be necessary not only between the Welsh and UK governments, but between all four of the UK's administrations.

Furthermore, in her response to this Committee's report on *Common Frameworks for the Environment after Brexit* (July 2018), the Minister said:

"As the current phase of work continues and policy approaches for each Common Framework begins to be developed these will be tested with stakeholders."

We are therefore disappointed that there was no consultation with stakeholders in Wales as the UK Bill was being developed.

We are also disappointed that the Welsh Government chose not to set out its position on the UK Bill on introduction to Parliament. We believe that this lack of information has hampered our scrutiny of the UK Bill.

Extent of powers

In addition to those provisions that are necessary to establish a UK common framework, the UK Bill confers additional, broad powers on Welsh Ministers. Although the LCM and Supplementary LCM explain the reasons for including these provisions in the UK Bill, they do not explain the policy intention or how and when these powers will be used.

The Welsh Government is yet to publish its proposals for fisheries policy post-Brexit and will shortly be undertaking a consultation on this matter. Our concerns in respect of the UK Agriculture Bill equally apply to this Bill – a lack of justification for broad powers to be taken, when the Welsh Government does not yet know its longer term approach to fisheries.

A Welsh fisheries Bill

Currently, the Welsh Government could not introduce a Welsh fisheries Bill addressing all of the matters it may wish to, due to limitations on the Assembly's legislative competence. However, the UK Bill makes provision to address this (by the inclusion of the new clause 39). Once this Bill is enacted, the Welsh Government will be able to introduce a Welsh fisheries Bill, which it has committed to do. The Minister told us it is her intention for a Welsh fisheries Bill to be passed before the end of the Fifth Assembly. The Welsh Government has control over its legislative programme and it should prioritise legislation arising from Brexit, including a Welsh fisheries Bill.

Finally, we are concerned that, at this stage in the legislative scrutiny process, and with an accelerated Parliamentary timetable, there will be limited opportunity for the Welsh Government to seek to influence the UK Bill before it completes its passage through Parliament. This is of particular concern, given that the Minister has given a commitment to consider a number of areas for potential amendment.

Conclusion 1. The Welsh Government should explain why it has failed to fulfil commitments it has previously given to this Committee in relation to the development of UK common frameworks. In particular, it should explain why the UK Bill was not developed in collaboration and why stakeholders were not involved at a sufficiently early stage in its development. We remain to be convinced that the Intergovernmental Agreement is fit for purpose.

Conclusion 2. In future, we expect the Welsh Government to make a statement to the Assembly to coincide with the introduction of any UK Brexit-related Bills which legislate in relation to Wales.

In addition, we expect the Welsh Government to make public its position on the relevant provisions in any such Bills, identify the powers that are being sought, when these powers are required, and how they will be used. It should also differentiate between powers that are necessary in the immediate post-Brexit period, and those which will be used to implement future policy.

Conclusion 3. We acknowledge that legislation is needed to establish a UK common framework for fisheries management after Brexit. We are content that many of the provisions in the UK Bill are necessary to achieve this. However, the Bill contains additional provisions which exceed those which are necessary to establish such a framework. The Welsh Government has not explained the purpose and effect of these additional provisions. As such, we are not yet

convinced that the Welsh Government has provided adequate justification for the additional powers it is seeking via the UK Bill.

Conclusion 4. To address the concerns in Conclusion 3, the Welsh Government should explain the purpose and intended effect of the executive powers for Welsh Ministers in Schedules 4, 6 and 7. It should identify which of these powers are time-critical, and whether any of the powers could reasonably be deferred until the Assembly's competence has been extended to allow for a future Welsh fisheries Bill to be introduced.

Conclusion 5. The Welsh Government has control over its legislative programme. It should give a commitment that time will be made available in the legislative programme for a Welsh fisheries Bill to be brought forward and passed before the end of the Fifth Assembly.

Conclusion 6. The Welsh Government should explain how it will ensure that the Assembly's views are reflected in the UK Bill, given the lack of time available before the UK Bill completes its passage through Parliament.

3. Fisheries objectives

The Bill will require the four UK administrations, including the Welsh Government, to state their policies to achieve several UK-wide fisheries objectives.

40. Clause 1 of the UK Bill sets out the UK’s “fisheries objectives” for the UK Government and the devolved administrations. They are:

- the sustainability objective;
- the precautionary objective;
- the ecosystem objective;
- the scientific evidence objective;
- the discards objective; and
- and the equal access objective.

41. These reflect, to different degrees, some of the objectives in Article 2 of the CFP Regulations, including ensuring that fishing and aquaculture are environmentally sustainable and managed in a way that is consistent with achieving economic, social and employment benefits, and applying a precautionary principle approach to fisheries management.

42. The CFP Regulation places a duty on Member States to meet the objectives in Article 2. There is no corresponding duty on the UK administrations to meet the fisheries objectives in the UK Bill.

Evidence from stakeholders

The fisheries objectives

43. The majority of stakeholders welcomed the inclusion of the fisheries objectives in the UK Bill. Some stakeholders highlighted that certain objectives were weaker than those in the CFP regulations, and that some of the terms used in clause 1 were open to interpretation. For example:

- The “sustainability objective” was “unnecessarily weak” and should be “more focussed and specific”. Unlike Article 2 of the CFP Regulations, it

does not include a requirement for “a fair standard of living for fishermen and their coastal communities”.²¹

- The commitment to an “ecosystem approach” was laudable, but the term was “very broad” and “not well-understood”.²²
- The “ecosystem objective” should be amended to include a requirement to contribute to the achievement by 2020 of “good environmental status”. This would reflect the CFP Regulations and “be in the spirit of Welsh environmental legislation”.²³
- The “scientific objective” should be strengthened to require fisheries administrations “to follow scientific advice that ensures fish stock recovery and sustainability for all stakeholders”.²⁴ In addition, it should be extended to include “full and verifiable documentation” of catches to ensure “a true and accurate picture of what’s being taken out of the sea”.²⁵

44. Professor Barnes suggested the objectives “should be expanded to accommodate generally accepted principles of good fisheries management”. For example, fair allocation of fishing opportunities, an integrated approach to fisheries and other marine/coastal activities, and the compatibility of measures for shared stocks. According to Professor Barnes, this would provide decision-makers “with a stronger frame of reference for managing fisheries in UK waters”.²⁶

Maximum Sustainable Yield

45. Clause 1(3) sets out the “precautionary objective”, which is:

- to apply the precautionary approach to fisheries management; and
- to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above biomass levels capable of producing maximum sustainable yield.

²¹ Written evidence, NUTFA

²² RoP, para 7, 16 January 2019

²³ Written evidence, WEL and Greener UK

²⁴ Written evidence, Dr Bryce D Stewart

²⁵ RoP, para 288, 16 January 2019

²⁶ Written evidence, Professor Richard Barnes

46. While this largely replicates the corresponding objective in Article 2 of the CFP Regulations, the CFP goes further and commits Members States to achieving a maximum sustainable yield (MSY)²⁷ exploitation rate for all fish stocks (i.e. to end overfishing) by 2020 (the CFP target).

47. Academics and representatives from environmental organisations raised concern about the absence of the CFP target. According to WEL and Greener UK, this “is vital to protect against short-term political pressure to set catch limits higher than scientific advice, which would lead to overfishing and damage the health of our oceans”.²⁸ Griffin Carpenter believed it was a “glaring” omission from the UK Bill.²⁹

48. In written evidence, WEL and Greener UK said:

“There must be a target for fishing limits to be set at sustainable levels by 2020 and an immediate duty to deliver on restoring stocks to healthy biomass levels. The setting of fishing limits is within our direct control and the 2020 target is certainly achievable and already represents the latest date by which exploitation rates must be set at sustainable levels...”³⁰

49. Griffin Carpenter referred to the CFP target as “one of the landmark inclusions” in the 2013 CFP reform and called for the UK Bill to be amended “to include a duty to set fishing opportunities in accordance with MSY by 2020 and beyond”.³¹ However, he suggested that the UK Bill could simply include a commitment that “fishing opportunities should be set in accordance with MSY”.³² A similar point was made by Professor Barnes.³³

50. Dr Bryce Stewart from the University of York also supported the inclusion of the CFP MSY target³⁴ and explained that “high expectations of increased UK catch

²⁷ The CFP regulations define maximum sustainable yield as follows: “the highest theoretical equilibrium yield that can be continuously taken on average from a stock under existing average environmental conditions without significantly affecting the reproduction process”.

²⁸ Written evidence, WEL and Greener UK

²⁹ Written evidence, New Economics Foundation

³⁰ Written evidence, WEL and Greener UK

³¹ Written evidence, New Economics Foundation

³² RoP, 43, 16 January 2019

³³ Written evidence, Professor Richard Barnes

³⁴ RoP, para 45, 16 January 2019

opportunities (quota share) post-Brexit...could lead to overfishing if there is not strong collaboration and agreement in the management of shared stocks”.³⁵

51. Those representing the industry took a different view and welcomed the lack of a specific MSY target. The WFA stated that the current CFP target “has proved challenging”. It therefore favoured the approach taken in the UK Bill:

“...whilst retaining the MSY objective [the Bill] has removed the arbitrary MSY timetable together with the unscientific and unachievable language with which the concept of MSY was expressed within the CFP.”³⁶

52. Similar views were expressed by NUTFA who stated that MSY was “an aspiration as part of a bigger fisheries management picture, but it shouldn’t be used as the rational point and the only rational point for fisheries management”.³⁷

Landing obligations or discards

53. Clause 1(6) sets out the “discards objective”, which is to gradually eliminate discards, on a case-by-case basis, by—

- avoiding and reducing, as far as possible, unwanted catches, and
- gradually ensuring that catches are landed.

54. This replicates the objective in Article 2 of the CFP Regulations. However, Article 15 of the same Regulations (which is unamended by the UK Bill) introduces a landing obligation, also known as the “discard ban”. The landing obligation requires all catches of regulated commercial species on-board to be landed and counted against quota. So, fish that have been caught are no longer allowed to be discarded at sea. The landing obligation has been phased in across fisheries and species, with the full obligation coming into force on 1 January 2019.

55. Stakeholders who commented on the discards objective expressed mixed views. Professor Barnes, referred to the relationship between the discards objective and the CFP landing obligation as “unclear but suggests a backward

³⁵ Written evidence, Dr Bryce D Stewart

³⁶ Written evidence, Welsh Fisherman’s Association

³⁷ Written evidence, NUTFA

step”.³⁸ Dr Stewart raised concern that the objective in the UK Bill was “less stringent and comprehensive” than the CFP landing obligation.³⁹

56. In contrast, the WFA welcomed the discards objective, which it believed was “both aspirational and realistic” and “strikes the right balance between policy and practice”. According to the WFA, the CFP landing obligation “failed to take account of the complexities of fisheries management” and “has generated profound difficulties for the fishing industry and fisheries manager”.⁴⁰

The absence of a duty to deliver the fisheries objectives

57. One of the main criticisms stakeholders had of the UK Bill was the lack of a duty on the fisheries policy authorities to deliver the fisheries objectives. Instead, fisheries policy authorities (and the Marine Management Organisation (MMO)) must exercise their functions in accordance with a Joint Fisheries Statement (JFS), which states their joint policies for achieving the objectives (clause 6). Further detail on JFSs is set out in Chapter 4.

58. Dr Stewart stated it was not clear “how all of the objectives in the Bill will be achieved, when they will be achieved, and how the UK government (and/or devolved nations) will be held accountable if they are not”. This was “primarily because the objectives in the Bill are only that, high-level aspirations, not duties”.⁴¹

59. Professor Barnes stated that the objectives “would be strengthened if they were restated as duties”. He explained this would:

“provide a potential mechanism for ensuring that decision- makers are held to account for the mismanagement of fisheries.”⁴²

60. According to WEL and Greener UK, the lack of a duty to deliver the fisheries objectives “risks undermining the aim held by all UK governments to deliver truly sustainable fisheries management and with it thriving, healthy stocks, and consumer confidence that UK seafood is sustainably produced”. They called for the UK Bill to be amended in this regard.⁴³ ClientEarth echoed this view.

Monitoring progress against the objectives

³⁸ Written evidence, Professor Richard Barnes

³⁹ Written evidence, Dr Bryce Stewart

⁴⁰ Written evidence, Welsh Fisherman’s Association

⁴¹ RoP, para 43, 16 January 2019

⁴² Written evidence, Professor Richard Barnes

⁴³ Written evidence, WEL and Greener UK

61. A number of witnesses referred to the lack of provision in the UK Bill for monitoring and oversight of the fisheries objectives. For example, Professor Barnes stated:

“...the mechanism for ensuring that [the fisheries] objectives are achieved, to me, doesn’t appear to be that strong. So, a point of contrast might be something like the Well-being of Future Generations (Wales) Act 2015, where the Ministers are required to periodically report on progress towards various objectives through indicators. That’s not there within this Bill.”⁴⁴

62. WEL and Greener UK called for “a requirement on each national authority to publish an annual update on progress against objectives to ensure adequate accountability”.⁴⁵ A similar view was expressed by ClientEarth, who suggested a three year reporting cycle, in line with the requirement in the Marine and Coastal Access Act 2009.⁴⁶

Evidence from the Minister

63. The Minister stated that the fisheries objectives “broadly replicate” the CFP objectives in Article 2 of the CFP Regulations “in a way which is operable within a UK legislative framework”.⁴⁷

64. The Minister’s official suggested that, although the objectives did not explicitly refer to “a fair standard of living for fishermen and their coastal communities”, “we expect [it] to be covered in [the sustainability objective]”.⁴⁸

65. The Minister explained that she would expect the JFS to include further detail on how the ecosystem approach to fisheries management would be taken forward.⁴⁹

Our view

The fisheries objectives in the UK Bill mainly reflect the objectives in Article 2 of the CFP Regulations. However, the objectives in the UK Bill could be more

⁴⁴ RoP, para 28, 16 January 2019

⁴⁵ Written evidence, WEL and Greener UK

⁴⁶ RoP, para 320, 16 January 2019

⁴⁷ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

⁴⁸ RoP, para 50, 24 January 2019

⁴⁹ RoP, para 47, 24 January 2019

appropriately described as over-arching objectives or high-level aspirations. Unlike the UK Bill, the CFP Regulations contain further detailed objectives and, in some cases specific targets.

We believe that the fisheries objectives in the UK Bill are generally appropriate. However, we are disappointed by a small number of significant omissions, most notably, a requirement not to exceed MSY limits by 2020. We are also disappointed that the objectives weaken the emphasis on ensuring a fair standard of living for fishermen and their coastal communities. This is particularly important for Welsh fisheries.

We agree with stakeholders that the absence of a duty in the UK Bill to deliver the fisheries objectives is a significant weakness. Understandably, stakeholders are concerned that this is a retrograde step, which could, amongst other things, risk reversing progress in environmental standards in Welsh fisheries and the marine environment. We believe that the Welsh Government should consider whether it is appropriate to include a duty on the Welsh Ministers in a future Welsh fisheries Bill.

The absence of a duty on the UK fisheries authorities to deliver the fisheries objectives increases the need for the JFS to be robust. We believe the JFS should include milestones and targets to measure progress against the fisheries objectives. We return to these issues in Chapter 4.

Conclusion 7. We are broadly content with the fisheries objectives, subject to a commitment that the JFS will include milestones and, where appropriate, specific and ambitious targets, against which progress can be measured. These should be developed by the UK administrations in collaboration and should include a requirement not to exceed Maximum Sustainable Yield limits. We expect the Welsh Government to take this forward as part of its ongoing discussions on the JFS.

Conclusion 8. Within 6 years of the passing of the UK Bill, the UK administrations should undertake a joint review of the fisheries objectives to ensure they are fit for purpose. We expect the Welsh Government to take this forward with the other UK administrations with a view to ensuring that arrangements for reviewing the objectives are included in the UK Bill. If agreement for this cannot be reached, we expect a commitment to undertake a review to be included in the Fisheries Management Framework Agreement.

Conclusion 9. As part of its *Brexit and Our Seas* consultation, the Welsh Government should explore whether it is appropriate to include in a future

Welsh fisheries Bill a duty on Welsh Ministers to take all reasonable steps to achieve the fisheries objectives.

4. Fisheries statements

The UK Bill requires the UK administrations, including the Welsh Government, to produce and publish a Joint Fisheries Statement, which will set out how they will achieve the fisheries objectives.

66. Clauses 2 to 6 make provision for a “Joint Fisheries Statement” (JFS) and a “Secretary of State Fisheries Statement” (SSFS). The JFS provisions require fisheries authorities (i.e. the UK Government and devolved administrations) to jointly prepare and publish a JFS before 1 January 2021.

67. Clause 2(1) provides that a JFS will state the fisheries policy authorities’ policies for achieving, or contributing to the achievement of, the fisheries objectives. The SSFS covers many of the more detailed objectives in Article 2 of the CFP Regulations and will include the Secretary of State’s policies in relation to these objectives. These objectives would only apply to England, and to the UK for matters which are not devolved.

68. Clauses 3 to 5 set out the process for preparing, amending and reviewing a JFS and a SSFS. Schedule 1 makes further provision in relation to preparing and publishing these statements. In the case of a JFS, the fisheries authorities, acting jointly, must prepare and publish a draft JFS. Each of these authorities must lay a draft before the appropriate legislature and respond to any resolutions or recommendations made. In the case of a SSFS, the Secretary of State is responsible for preparing the statement and consulting the UK Parliament on a draft.

69. Clause 6 requires “relevant national authorities”⁵⁰ to exercise their functions in accordance with the policies contained in a JFS, “unless relevant considerations indicate otherwise”. If authorities deviate from those policies they must state their reasons. Corresponding requirements are placed on the Secretary of State and the MMO in respect of a SSFS.

⁵⁰ Clause 6 sets out that a “relevant national authority” means: the Secretary of State, the Marine Management Organisation, the Scottish Ministers, the Welsh Ministers, or the Northern Ireland Department

Evidence from stakeholders

70. There were mixed views from stakeholders on the provisions in relation to fisheries statements. The WFA welcomed the introduction of these statements as “a flexible and adaptive vehicle for fisheries policy”,⁵¹ while NUTFA stated the JFS “seems to be a very sensible way forward”⁵². Other stakeholders, while supportive of the fisheries statements in principle, questioned whether the provisions, as drafted, provided an appropriate mechanism to successfully deliver the fisheries objectives. As previously mentioned, several stakeholders called for a duty on fisheries policy authorities to deliver the objectives.

71. Professor Barnes noted that the content of the fisheries statement was “fairly open”. He stated the fisheries statements “play a critical role in establishing the framework for more specific legal measures to manage fisheries” and should be “subject to full and transparent scrutiny”. While he acknowledges the scrutiny procedures set out in Schedule 1, he suggested that these could be enhanced by including a list of statutory consultees.⁵³

72. ClientEarth, WEL and Greener UK raised concern about the ability of fisheries policy authorities to deviate from policies contained in a JFS. They pointed out that clause 6(1) provided no detail on the circumstances in which an authority could deviate from a JFS. WEL and Greener UK stated, “there is therefore a significant risk that authorities will disregard the policy statement, and therefore the fisheries objectives”.⁵⁴

73. Similarly, Professor Barnes highlighted that clause 6(1) “provides a potentially wide exception to the requirements to adhere to statement (and fisheries objectives)” and called for “the threshold for exceptions [to] be higher”. He asserted that the requirement on authorities to state their reasons for deviating from policies was “critical”, but believed that these reasons should be published.⁵⁵

74. WEL and Greener UK highlighted that the requirement to exercise functions in accordance to a JFS (clause 6(1)) is limited to fisheries administrations.

⁵¹ Written evidence, Welsh Fisherman’s Association

⁵² RoP, para 170, 16 January 2019

⁵³ Written evidence, Professor Richard Barnes

⁵⁴ Written evidence, WEL and Greener UK

⁵⁵ Written evidence, Professor Richard Barnes

Therefore, “other public authorities that make fisheries decisions (including Natural Resources Wales) would not be bound by this duty”.⁵⁶

Evidence from the Minister

75. The Minister stated that discussions about the contents of the JFS, including possible milestones, and measuring and monitoring arrangements, were on-going. She also stated that the final contents of the JFS would be “informed by the scrutiny of the Bill, engagement with stakeholders, and scrutiny of the relevant legislatures in line with the final provisions of the Act”.⁵⁷

76. The Minister’s official explained it was anticipated that the JFS would include the allocation of fishing opportunities across the UK, and “how [the UK administrations will] work together in achieving maximum sustainable yield”.⁵⁸

77. The Minister explained that the JFS would form the “key part” of the Fisheries Management Framework Agreement, which would set out the shared objectives of the fisheries policy authorities. In commenting further on the Agreement, she stated:

“[It] will be underpinned by a range of memoranda of understanding detailing how the policy authorities will work together. These will be supported by effective joint governance mechanisms and suitable dispute resolution mechanisms.”⁵⁹

78. When questioned about the rationale for the approach taken in Schedule 1, the Minister explained that “Welsh Ministers were not consulted on the [drafting] instructions”.⁶⁰

79. The Minister emphasised it would be important for the JFS “[to be] reviewed periodically and [for the Welsh Government to] publish a report on it”, which she had “fed in to the UK Government”.⁶¹ She suggested to the Committee a reporting period of three years would be reasonable.⁶²

⁵⁶ Written evidence, WEL and Greener UK

⁵⁷ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

⁵⁸ RoP, para 15, 24 January 2019

⁵⁹ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

⁶⁰ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

⁶¹ RoP, para 20, 24 January 2019

⁶² RoP, para 64, 24 January 2019

Our view

The Joint Fisheries Statement is central to the overarching framework for fisheries policy set out in the UK Bill. The JFS will also be the key mechanism for delivering the fisheries objectives.

Given this, we are disappointed by the lack of detail in the UK Bill on the content of the JFS. We note that the Welsh and UK governments continue to discuss the contents of the JFS, including possible milestones, and measuring and monitoring arrangements. However, the lack of clarity on such an important part of the UK's post-Brexit approach is a cause for concern.

We refer back to our Conclusion 7, and the need for the JFS to include milestones and, where appropriate, specific and ambitious targets, against which progress can be measured.

While we note the Minister's assertion that the JFS will form "a key part" of the Fisheries Management Framework Agreement, there is a lack of clarity about the purpose and proposed content of this Agreement, including how, when and by whom it will be developed.

The UK Bill sets out a clear procedure for the development and scrutiny of the draft JFS, which includes consultation and scrutiny requirements. However, it does not make provision to ensure that the UK administrations are held to account for the delivery of their policies and the achievement of the fisheries objectives. We believe this is a significant omission.

Conclusion 10. The UK Bill should be amended to include 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. We expect the Welsh Government to make representations to the UK Government and other devolved administrations in this regard.

If agreement cannot be reached, the Welsh Government should give a commitment that it will report to the Assembly on a three-yearly basis beginning from the date on which the first JFS is published. This report should use the policies set out in the JFS as a reference point and should measure progress against the fisheries objectives and other relevant objectives, such as those included in Welsh legislation.

Conclusion 11. The Welsh Government has yet to explain the purpose and proposed content of the Fisheries Management Framework Agreement. This will

underpin the operation of the fisheries framework. It is difficult for the Assembly to make a judgement about the appropriateness of consent without this information. The Welsh Government should provide further details as a matter of urgency. It should explain what opportunities will be available for stakeholders to inform the development of the Agreement and how it can be scrutinised by the Assembly. The Welsh Government should publish the Agreement at the earliest opportunity.

5. Access to British fisheries

The UK Bill includes provisions for the UK administrations, including the Welsh Government, to issue licences to foreign and British vessels.

80. Clause 7 revokes Article 5 of the CFP Regulations, which allows equal access to EU fishing boats to EU waters. Instead, the UK Bill provides that foreign fishing boats are prohibited from entering UK waters to fish unless they hold a licence (clauses 8 and 11), or for a purpose recognised by international law or by any international agreement, or arrangement to which the UK is a party.

81. Clause 11 provides powers for the Secretary of State to create and subsequently amend exceptions to the prohibition, subject to the consent of the devolved administrations. The Delegated Powers Memorandum accompanying the UK Bill provides the following explanation for the inclusion of this power:

“The Fisheries Administrations may need to introduce exceptions to the prohibition on unlicensed fishing by foreign vessels. This could be necessary to implement any agreement with the EU or other countries on the conditions for access to UK waters.”⁶³

82. Clause 12 provides powers for the devolved administrations and the MMO to grant licences to foreign fishing vessels in relation to their relevant administrative area.

83. Clause 9 prohibits fishing by a British fishing boat unless it is licensed. There are, however certain exceptions, which the Secretary of State can amend by regulations, with consent of the devolved administrations. Clause 10 provides powers for the devolved administrations to license their own boats.

84. Clauses 14 to 17 make provision for offences and penalties for non-compliance in respect of licences and access. Schedule 2 makes further provision in relation to licences, and Schedule 3 contains consequential amendments.

⁶³ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0278/181025DelegatedPowerMemorandum.pdf>

Evidence from stakeholders

Access for foreign vessels to British waters

85. There were mixed views from stakeholders on access for foreign fishing boats to British waters following the UK's departure from the EU. According to the WFA, revoking the CFP's requirement for Member States to give equal access for EU fishing vessels to their waters, was "an essential precondition to deliver the UK's stated intention to act as an Independent Coastal State in accordance with international law (UNCLOS)".⁶⁴

86. NUTFA suggested that the current CFP requirement, amongst other things, had led to the "demise of the Welsh fin fish fisheries" and had a detrimental effect on the sector in Wales. It asserted that foreign fishing vessels should not be permitted access to British waters, "because we need to regenerate Welsh fisheries in our territorial waters and, therefore, drive the renaissance in the Welsh fishing fleet in a broader sense".

87. Dr Stewart pointed out that decisions on access "will probably be made at a high level", i.e. as part of the negotiations on the UK's future relationship with the EU. He suggested there was a lack of clarity on whether the devolved administrations could subsequently impose licence conditions, or additional conditions, on foreign fishing vessels in relation to their own administrative area.⁶⁵

88. Dr Stewart said that restrictions on access of EU fishing vessels in British waters "will likely lead to reciprocal restrictions on UK fishing vessels in EU waters". He asserted this could have "significant negative implications for certain members of the UK fishing fleet, which require further investigation and consideration".⁶⁶

89. NUTFA raised concern that the powers for the devolved administrations to grant licences (clauses 10 and 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 [and foreign] fishing vessel licences". According to NUTFA, this was "potentially both dangerous and divisive". It emphasised the need for "an overarching requirement on central government to control the provision of additional licences for access to fishing UK waters".⁶⁷

⁶⁴ Written evidence, Welsh Fisherman's Association

⁶⁵ RoP, para 59, 16 January 2019

⁶⁶ Written evidence, Dr Bryce Stewart

⁶⁷ Written evidence, NUTFA

90. ClientEarth, WEL and Greener UK noted that there was no provision in the UK Bill to ensure that foreign vessels granted access to British waters comply with the same environmental standards as British vessels. WEL and Greener UK believed that compliance was “essential to ensure a level playing field and a high level of environmental protection”. They called for an explicit requirement to be included in the UK Bill to reflect this.⁶⁸

Licensing arrangements for British vessels

91. Currently, UK fishing boats have equal access to British fisheries. This right would be retained under the UK Bill, (subject to specific provisions). NUTFA suggested that, in practice, this would not benefit Welsh fisheries because they were constrained by Wales’ limited quota allocation.⁶⁹ It stated:

“...you could have a situation—which, in fact, you have now, very often—where Welsh fishermen have to stand on the quay, unable to go to sea to catch fish, because they don’t have the quotas through the failures of the concordat, and they can only watch vessels from other nations taking those fish, and that surely must be unfair.”⁷⁰

92. The issue of quota is explored in more detail in Chapter 6.

Monitoring and enforcement

93. Stakeholders representing environmental organisations raised concern about the lack of emphasis in the UK Bill on monitoring and enforcement, which is “a fundamental part of effective fisheries management”.⁷¹

94. WEL and Greener UK asserted that the UK’s enforcement system “does not fulfil many of the criteria set out in the Control Regulation and IUU Regulation and is based on lengthy and expensive criminal proceedings”. They called for the UK Bill to “strengthen existing mechanisms”. For example, a requirement for all vessels to carry vessel monitoring systems, regardless of size, and for remote electronic monitoring with CCTV for all large vessels (over ten metres) and for select smaller vessels. They also called for “an appropriate sanctioning system...to ensure that the provisions of the Fisheries Bill are effectively enforced”.⁷²

⁶⁸ Written evidence, WEL and Greener UK

⁶⁹ RoP, para 212, 16 January 2019

⁷⁰ RoP, para 212, 16 January 2019

⁷¹ Written evidence, WEL and Greener UK

⁷² Written evidence, WEL and Greener UK

Evidence from the Minister

95. In reference to the revocation of Article 17 of the CFP and the prohibition of foreign fishing boats from entering UK waters without a licence, the Minister stated:

“...that’s always been a concern that’s been raised with me, that any foreign fishing vessel that comes into our waters doesn’t have to comply with our unique Welsh legislation, so that will obviously change. We’ll be able to extend our legislation to foreign vessels, so we’ll have much more of a level playing field, which we certainly haven’t had before.”⁷³

96. However, she also stated that foreign fishing vessels “will have to have a valid UK annual fishing authorisation to fish within our waters”. Her official explained that work was being undertaken across the UK administrations to develop “a single issuing authority to do with the licensing of foreign vessels”.

97. On the powers for the Welsh Ministers to issue licences to foreign fishing vessels, the Minister explained this would ensure “that there are conditions attached to [licences]...to fit in with [Welsh] legislation”.⁷⁴

98. The Minister acknowledged there were concerns about the continuation of equal access to British fisheries for UK fishing boats, but stated:

“I think what is really important is to ensure we have the appropriate controls in place for each specific fishery and marine environment rather than looking where the vessel comes from...it’s really important that we get that balance right.”⁷⁵

99. The Minister’s official explained that the EU Regulations in relation to monitoring and enforcement would be retained under the EU Withdrawal Act 2018.⁷⁶ The Minister said that the current EU monitoring and enforcement regime was “gold standard”, and she did not believe improvements would be needed as the UK exits the EU, or in the context of the provisions within the UK Bill.⁷⁷ The

⁷³ RoP, para 102, 24 January 2019

⁷⁴ RoP, para 106, 24 January 2019

⁷⁵ RoP, 112, 24 January 2019

⁷⁶ RoP, para 244, 24 January 2019

⁷⁷ RoP, para 243, 24 January 2019

Minister said there had been a considerable recent investment by the Welsh Government of approximately £7m in enforcement vessels in Wales.⁷⁸

100. The Minister's official explained that the Welsh Ministers currently have powers in relation to requiring CCTV on fishing vessels, through the use of licence conditions. He explained:

"We could always apply it to UK vessels in our waters using licence conditions, but it was never a level playing field, because European vessels didn't have to comply with that. Now, through the UK Fisheries Bill, they would. Licence conditions would apply to them equally."⁷⁹

Our view

The UK Bill removes the rights of EU fishing vessels to fish in UK waters, and any future access arrangements will be a matter for negotiation. This continues to be the subject of much contention, with marked differences in the EU and UK's positions. It is possible that reciprocal access arrangements will form part of a future trade agreement. We explore this issue in more detail in Chapter 8.

Our report, *The impact of Brexit on fisheries in Wales*, emphasised the importance of continued access to EU waters to ensure the viability of Welsh fisheries, at least in the short to medium term. It is vital the UK and Welsh governments ensure that the particular needs of Welsh fisheries are reflected in discussions on post-Brexit agreements.

The provisions in the UK Bill relating to access and licensing appear reasonable. However, it is likely that access to waters will be subject to a future agreement between the UK and the EU. It is unclear whether such an agreement will limit the Welsh Government's ability to use licence conditions to support its policies, such as to secure high environmental standards in the Welsh zone.

Although the UK Bill confers powers on Welsh Ministers to licence foreign fishing vessels, it appears that the preferred approach is for a single licence granting access to UK waters. This will be issued by the Marine Management Organisation. If this is the intended approach, it would have been more transparent for this to be included in the UK Bill. Moreover, the Welsh Government should have informed the Assembly at an earlier stage that this was being considered. There is a lack of clarity about how this arrangement will

⁷⁸ RoP, para 111-113, 24 January 2019

⁷⁹ RoP, para 203, 24 January 2019

operate in the context of the licensing provisions and the powers that are being conferred. Furthermore, it is unclear whether there will be sufficient flexibility within a single licence approach to include requirements that apply only to the Welsh zone.

We note that the UK Bill provides powers for the Secretary of State to amend the licensing provisions to create, add, remove or vary exceptions to the prohibition of foreign fishing boats. Again, there is a lack of clarity about how this will impact on the powers for the Welsh Ministers. Furthermore, although changes to exceptions require the consent of the devolved administrations, it is not clear how any disputes would be resolved.

Conclusion 12. The Welsh Government must ensure that the interests of Welsh fisheries are represented fully in discussions about access to markets and future trade deals with the EU.

Conclusion 13. The Welsh Government should provide further details on the proposal for the Marine Management Organisation to issue a single licence to foreign fishing vessels. The Welsh Government should clarify how this would impact on its power to grant licences, in particular, the ability of Welsh Ministers to impose specific licence conditions on foreign fishing boats in relation to the Welsh zone. For example, to require onboard CCTV monitoring.

Conclusion 14. The Welsh Government should provide further details about how it intends to use licensing conditions for UK vessels to secure adherence to environmental standards in the Welsh zone. In particular, the Welsh Government should set out how licence conditions will be used to address plastic pollution and other, related matters.

Conclusion 15. The Welsh Government should explain the circumstances in which it envisages the Secretary of State will use the powers in clauses 9 and 11, to change the exceptions to the prohibition of British or foreign vessels to fish in British waters without a licence. The Welsh Government should explain how any potential disputes over the exercise of these powers will be resolved. As a minimum, we expect a dispute resolution mechanism to be included in the Fisheries Management Framework Agreement.

6. Fishing opportunities and quota share

Leaving the CFP provides a unique opportunity to rethink the way fishing opportunities, commonly known as quota, are distributed in the UK.

Total Allowable Catch and quota

101. The CFP's explicit objectives are to ensure that fishing is environmentally, economically and socially sustainable. Under the CFP, most fish stock is managed using TACs, which are agreed following scientific advice provided by the International Council for the Exploration of the Sea. TACs for the following year are agreed annually at the EU Agriculture and Fisheries Council meeting (known as the "December Council").

102. Once agreed, TACs are distributed to Members States. The distribution method is based on the principles of "relative stability" and divides TACs according to an allocation key based on the historic catches of Members States between a 1973 to 1978 reference period.

Division of UK Quota share

103. Until 2012, the UK Government was responsible for setting individual quotas for fishing vessels that held a fishing licence at a UK level. Since 2012, devolved administrations have been responsible for distributing quota to their respective fleets, in accordance with the Fisheries Concordat.

104. The Fisheries Concordat sets out how the UK's quota allocation is divided between the four administrations and provides overarching principles on effort control and licensing. The three key elements of the Concordat are:

- quota allocation and distribution – quota is divided across the four administrations using Fixed Quota Allocations (FQAs), based on vessel's historic landings during a fixed reference period (1994-1996 for most stocks). For under 10 metre vessels, allocations are based on numbers of vessels;
- licensing and vessel nationality - the nationality of a vessel is determined by the port at which it is registered; and

- economic link licence conditions - special needs of coastal communities with a high dependency on fishing.

Non-quota fisheries: shellfish

105. Shellfish are an important part of UK fisheries, in particular Welsh fisheries, with the highest total value of landings. The majority of shellfish catch is exported. The majority of shellfish landed in the UK does not fall under the quota system.

106. Shellfish licensing is outside of the CFP, managed at regional level and as such will not be directly affected by the UK leaving the EU.

107. 92% of the Welsh fleet is made up of small boats, under 10m in length, catching mainly shellfish and non-quota fish species.

Provisions in the UK Bill

108. Clauses 18 and 19 make provisions in relation to fishing opportunities (or quota) for British fishing boats. Clause 18 provides that the Secretary of State may determine the total fishing opportunities (in terms of both the maximum quantity of sea fish (the catch quota) and the maximum number of days that boats can spend at sea (the effort quota)). A determination may be made only for the purpose of complying with an international obligation of the UK in respect of fishing opportunities.

109. The Supplementary LCM expands on the Welsh Government's concerns in relation to clause 18. It is the UK Government's view that clause 18 does not require legislative consent from the Assembly on the basis that it relates to international obligations which are reserved functions. The Welsh Government does not accept this view. While the Welsh Government acknowledges that it is appropriate for the Secretary of State to set the overall total of fishing opportunities derived from negotiations, it states:

“...the implementation of international agreements in areas of devolved competence is not reserved, and falls within the Legislative Competence of the National Assembly for Wales. This was confirmed by the Supreme Court in Reference of the UK Withdrawal from the EU (Legal Continuity) (Scotland) Bill [2018] UKSC 64. As the term ‘International Obligations’ (used in the Bill) is broad and may cover the

implementation of such an agreement, the Clause does impact on devolved competence and as such Assembly consent is required.”⁸⁰

110. Clause 19 requires the Secretary of State to consult the devolved administrations and the MMO before making or withdrawing a determination under clause 18.

111. Clause 20 revokes Article 16 of the CFP Regulations. Article 16 provides for the European Council to distribute fishing opportunities to Member States under the principle of relative stability.

112. Clause 20 also amends Article 17 to make it operable in UK law. Article 17 requires Member States to distribute fishing opportunities domestically according to transparent and objective criteria including those of an environmental, social and economic nature. The effect of these amendments is to place duties on the Secretary of State and the MMO in relation to the distribution of fishing opportunities.

113. According to the Explanatory Notes accompanying the UK Bill, clause 20 “does not apply Article 17 to the other Fisheries Administrations, at their request”.⁸¹

114. Clause 21 places a duty on UK relevant national authorities to exercise their functions in relation to fisheries so as to ensure that UK fishing opportunities are not exceeded.

Evidence from stakeholders

The division of UK quota

115. There was widespread agreement among stakeholders that the current method of allocating quota, as set out in the Fisheries Concordat (‘the Concordat’), was unfair, with Wales receiving only 1% of the UK’s total allocation. The majority of stakeholders questioned why the UK Bill had not been used as an opportunity to address this issue.

116. The majority of stakeholders called for changes to the method of quota allocation to ensure Wales received a fairer share of quota. Professor Barnes pointed out that the UK Government’s White Paper “promised a move towards a fairer system of allocations”, but that there was no evidence of this in the UK Bill.⁸²

⁸⁰ www.assembly.wales/laid%20documents/lcm-ld12027/lcm-ld12027-e.pdf

⁸¹ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0278/en/18278en01.htm>

⁸² Written evidence, Professor Richard Barnes

117. Bangor Mussels Producers Limited noted that the UK Bill “does not appear to provide much illustration that the fundamental nature of the distribution of opportunities to access stocks managed by quota/effort... will change”.⁸³

118. Griffin Carpenter suggested that allocating quota based on historic catch effectively meant “rewarding overfishing” as “those who were hitting the environment the hardest were rewarded with the greatest quota shares”.⁸⁴ He explained that quota allocation did not reflect the total Welsh catch, as it did not include the catch of under-10m vessels, which constitute the majority of the Welsh fleet.⁸⁵ Professor Barnes stated that using historic catch records as a basis on which to allocate quota was “really problematic” and, critically, did not allow scope for the industry to grow and develop.⁸⁶

119. Professor Barnes suggested different criteria could be used to ensure a fairer allocation, for example, the structure and diversity of the fishing fleet, and the needs of coastal fishing communities.⁸⁷

120. NUTFA asserted that the current method of quota allocation was “unfair...and counterproductive in socio-economic and environmental terms to coastal communities”. It was highly critical of the Welsh Government’s decision to sign up to the Fisheries Concordat.⁸⁸

New fishing opportunities arising from Brexit

121. There was widespread support for an alternative method of quota allocation to be used for any additional quota arising from Brexit. Stakeholders raised concern that, without this, Welsh fisheries would be no better off as a result of Brexit. However, some stakeholders highlighted that the Welsh fishing fleet would be unable to immediately take advantage of any additional quota due to a lack of capacity. It would need time, and support from the Welsh Government, to adapt and develop. The issue of financial support is covered in more detail in Chapter 7.

122. Griffin Carpenter cited his report for Wales Centre for Public Policy, *Implications of Brexit for Fishing Opportunities in Wales*, which said “the Welsh

⁸³ Written evidence, Bangor Mussels Producers Limited

⁸⁴ RoP, para 76, 16 January 2019

⁸⁵ RoP, para 76, 16 January 2019

⁸⁶ RoP, para 82, 16 January 2019

⁸⁷ Written evidence, Professor Richard Barnes

⁸⁸ Written evidence, NUTFA

fleet requires a different arrangement of quota sharing within the UK to get its fair share [of additional quota]”.⁸⁹

123. The WFA questioned on what basis any additional quota, arising from any adjustments to the UK’s quota following Brexit, would be allocated across the UK, and how the Welsh Government would seek to influence this to ensure a fair allocation for Wales.⁹⁰

124. Greener UK called for any additional quota “to be distributed in a way that is fair, and takes into account social, economic and environmental requirements”. Dr Stewart suggested that additional quota could be targeted towards small-scale vessels, which:

“...make up the majority of the UK fishing fleet (and dominate the Welsh fishing fleet in particular), but currently hold less than 5% of the UK quota. These vessels generally have lower environmental impacts, but are more closely connected to local communities and provide more jobs. Making these changes would directly support one of the Fisheries Bill’s primary objectives – to manage fisheries in a way that is environmentally sustainable while ensuring economic, social and employment benefits.”⁹¹

Methods for allocating quota

125. Some stakeholders expressed disappointment that clause 20, which amends Article 17 of the CFP, failed to address the current inadequacies of the system for quota allocation.

126. Griffin Carpenter explained that, although Article 17 requires Member States to allocate quota on the basis of transparent and objective criteria, there is no subsequent requirement to use environmental, social and economic criteria. As such, most Member States, including the UK, continued to use historic catch records as a basis for allocating quota. He said:

“By merely transposing the existing wording of Article 17 there is little doubt that this text will continue to have no bearing on the actual functioning of UK fisheries management.”⁹²

⁸⁹ www.wcpp.org.uk/publication/implications-of-brexit-for-fishing-opportunities-in-wales/

⁹⁰ RoP, para 216, 16 January 2019

⁹¹ Written evidence, Dr Bryce Stewart

⁹² Written evidence, New Economics Foundation

127. He called for the UK Bill to be amended “to include a mandate that environmental and social criteria are used in all fisheries administrations for the allocation of future opportunities (both existing and new), while the specific criteria within these domains can remain a devolved competence”.⁹³

128. ClientEarth, WEL and Greener UK expressed a similar view. WEL and Greener UK stated:

“Given the often small-scale, coastal nature of Welsh fisheries, we believe a move to allocation of quota according to environmental and social criteria would further Welsh Government’s contributions under the Wellbeing of Future Generations Act 2015 and benefit Welsh coastal communities.”⁹⁴

Evidence from the Minister

129. The Minister reiterated the Welsh Government’s view that clause 18 “impinges of devolved matters” and therefore requires the legislative consent from the Assembly.⁹⁵ The Minister explained that:

“...our concerns really centre on the very broad way that this power has been written. So, the way it’s drafted at the moment...[the Secretary of State] could set our quota for scallops in Cardigan Bay. He could set the number of days it’s open, for instance—that is completely wrong—if it was linked to an international agreement. So, an absolute red line for me.”⁹⁶

130. While the Minister was “encouraged” by the discussions held with the UK Government to date, she explained that they were still on-going.⁹⁷ She asserted that, unless concerns in relation to clause 18 were addressed, she would not be able to recommend that the Assembly consent to the UK Bill.⁹⁸ The Minister’s official explained that the Welsh Government was seeking a formal inter-governmental agreement on the implementation of clause 18.⁹⁹

⁹³ Written evidence, New Economics Foundation

⁹⁴ Written evidence, WEL and Greener UK

⁹⁵ RoP, para 138, 24 January 2019

⁹⁶ RoP, para 139, 24 January 2019

⁹⁷ RoP, para 139, 24 January 2019

⁹⁸ RoP, para 143, 24 January 2019

⁹⁹ RoP, para 146. 24 January 2019

131. In reference to Wales' share of quota, the Minister said:

“The most important things is that Welsh fishermen receive their fair share of fishing opportunities, and I don't think that's been the case, and certainly we've had reports that clearly demonstrate that that's not the case...we need to change the way fishing opportunities are allocated within the UK. That's absolutely fundamental, otherwise there will be no re-balance.”¹⁰⁰

132. The Minister did not consider it necessary to include provision in the UK Bill to address the current imbalance in quota allocation. She suggested that this could be achieved “by making sure we have the right [UK fisheries management quota rules] going forward”.¹⁰¹

133. The Minister explained that “the basis under which we distribute fishing opportunities in Wales is currently set out in the UK fisheries quota management rules”. She also explained that future allocation would be “subject to consultation as we work with stakeholders to develop the future fisheries policy referred to in *Prosperity for All*”.¹⁰²

134. The Minister confirmed that the Fisheries Concordat would need to be reviewed “in light of EU exit and the creation of a fisheries framework”.¹⁰³

135. The Minister explained that a decision was taken for clause 20 not to apply to Wales following concerns about “the appropriateness of a UK Bill setting allocation criteria for devolved decisions and the risk of an overlap with existing legislation”. Consequently, “Welsh Ministers decisions in this area will need to be guided by other legislation, including the Well-being of Future Generations Act”.¹⁰⁴

136. However, the Minister's official subsequently explained that the decision not to apply clause 20 in relation Wales appeared to have “introduced a degree of confusion, because we need a consistent way of, at a high level, [administering the distribution of quota]”. As such, the Welsh Government was seeking an

¹⁰⁰ RoP, para 171, 24 January 2019

¹⁰¹ RoP, para 178, 24 January 2019

¹⁰² Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

¹⁰³ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

¹⁰⁴ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

amendment to clause 20 so that Article 17 (as amended by the UK Bill) would apply to Wales.¹⁰⁵

Our view

Division of UK quota

Leaving the CFP will provide a unique opportunity for the UK and Wales to rethink their approach to fisheries policy. In order to take up these opportunities, it is crucial to address Wales' current quota allocation, which we believe is fundamentally unfair.

We are deeply disappointed that the UK Government has decided that this issue will not be addressed as the UK leaves the EU. Unless this matter is revisited, the benefits for Welsh fisheries arising from Brexit will be marginal.

While we acknowledge the intention to review the Fisheries Concordat in light of the UK Bill, we do not believe that this goes far enough.

The UK Bill does not reframe the way in which quota is allocated to the constituent nations of the UK: We believe that the Bill should be amended to ensure that quota is allocated fairly, against clear criteria, and in a way that better aligns with the fisheries objectives. We believe that consideration should be given to amending Article 17 in this regard.

Methods for allocating quota to Welsh fisheries

We welcome the Minister's commitment to seek an amendment to the UK Bill to ensure that clause 20 applies in relation to Wales. As previously stated, we consider that additional amendments to Article 17 are necessary to ensure a fairer system of quota allocation. This applies equally to the allocation of quota to Welsh fisheries.

New fishing opportunities arising from Brexit

There is a lack of clarity about how any additional quota arising as a result of Brexit will be allocated across the UK's constituent nations. The UK Government's White Paper on proposals for the UK Bill made clear its intention to discuss with the devolved administrations allocating additional quota on a different basis. However, it appears that these discussions have yet to take place. In the Welsh Government's response to our previous report, it acknowledged

¹⁰⁵ RoP, para 190, 24 January 2019

the need for additional quota to be “top sliced and used to rebalance any historic disparity in the fleet segments”. There is a lack of clarity about what this will mean for Welsh fisheries in practice.

The Secretary of State’s powers under clause 18

We share the Welsh Government’s concern about the extent of the Secretary of State’s power to determine fishing opportunities, which could, as drafted, apply to stocks that are wholly within the waters of one of the devolved administrations.

We note that the Minister has said that the concerns in relation to clause 18 may be addressed through an intergovernmental agreement. .

This Committee raised a concern in relation to comparable provisions in the UK Agriculture Bill.

The Welsh Government and UK Government are in the process of finalising an agreement in relation to the relevant provisions. The Committee has had sight of the draft agreement and is not convinced that it is sufficiently robust to protect Wales’ interests. If a similar approach to adopted for the provisions in this UK Bill, we will not be satisfied.

We believe that the most appropriate way to address concerns in relation to clause 18 is through an amendment to the UK Bill.

Finally, we do not doubt the Welsh Government’s commitment to ensure Wales receives a fair share of additional quota. However, it is unclear how and when the Welsh Government will seek to address this. Given that increasing Wales’ quota share will be central to industry growth post-Brexit, the Welsh Government cannot afford to be complacent. We expect the Welsh Government to take firm and timely action to progress this matter with the UK Government.

Conclusion 16. The UK Bill constitutes a missed opportunity to rebalance a fundamental unfairness in the allocation of UK quota. If this is not addressed, there will be marginal benefits for Welsh fisheries as a result of Brexit.

Conclusion 17. We suggest the following as a fair and sustainable approach to the allocation of UK quota in future:

Firstly, Article 17 of the CFP (which is amended by UK Bill) should be amended to address the deficiencies identified by stakeholders. In

particular, that too much emphasis is given to historic catch when allocating quota at the expense of environmental, social and economic criteria.

Secondly, the Fisheries Concordat should be reviewed to reflect an increased emphasis on environmental, social and economic criteria when allocating quota to the constituent nations of the UK. The Welsh Government should take full advantage of any future review of the Fisheries Concordat to secure an increase in Wales' quota allocation.

We expect the Welsh Government to engage with the UK administrations to this effect.

Conclusion 18. Any new quota arising from Brexit should be allocated in accordance with environmental, social and economic criteria, with a view to addressing the imbalance in Wales' quota share.

Conclusion 19. We share the Welsh Government's concerns about the extent of the Secretary of State's powers in relation to the determination of fishing opportunities. We note that this is a "red line" for the Minister. We believe the most appropriate way to address this issue is by an amendment to the UK Bill.

Conclusion 20. We are not persuaded that the Welsh Government has done enough, up to now, to secure a fair share of quota allocation for Welsh fisheries. The Fisheries Concordat 2012 constrained the sector's growth and disadvantaged Welsh fisheries severely. As the UK leaves the EU, we believe the Welsh Government must do more. We expect the Minister to provide clear evidence of the steps she is taking to secure improvements in Wales' quota share.

7. Financial assistance powers and future funding

The UK Bill contains new provisions for allocating financial support after Brexit, but there is a lack of clarity about future funding.

137. Funding for the fisheries industry in the EU is provided from the European Maritime and Fisheries Fund (EMFF). The UK was allocated £190m from the EMFF over 2014-2020, which is divided between the four nations. Wales' share of the EMFF is approximately £15 million.

138. However, in December 2018, the UK Government announced that it has committed £37.2 million of extra funding to boost the UK fishing industry during the Brexit implementation period to the end of December 2020. From this amount there would be £2.4 million available for Wales, which would be in addition to the existing EMFF.

139. At the same time, the UK also announced:

“[it] 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 Devolved Administrations will lead their own schemes and details will be agreed at the 2019 Spending Review.”¹⁰⁶

140. According to the Explanatory Notes accompanying the UK Bill,¹⁰⁷ the purpose of the financial assistance provisions is to allow for a grant scheme to be established to replace EMFF funding post-Brexit.

141. Clause 28 provides powers for the Secretary of State to make provisions for such financial assistance schemes. It also introduces Schedule 4, which includes corresponding powers for the Welsh Ministers in relation to Wales, the Welsh zone, or Welsh fishing boats.

142. Financial assistance schemes must be established by regulations made by Welsh Ministers, and be subject to the affirmative procedure. The schemes may

¹⁰⁶ https://publications.parliament.uk/pa/bills/cbill/2017-2019/0278/Xerox%20Scan_10122018171049.pdf

¹⁰⁷ Bill <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0278/en/18278en01.htm>

be used to give financial assistance to any person for purposes set out in paragraph 1(1) of Schedule 4, including the conservation, enhancement or restoration of the marine and aquatic environment, and the promotion or development of commercial aquaculture activities, commercial fish activities and recreational fishing.

143. The Welsh Government's LCM says that "There are no direct financial implications for Wales as a result of taking these provisions in this Bill".¹⁰⁸ However, the UK Government, in the Explanatory Notes accompanying the UK Bill, says that four "items of new expenditure" will arise as a result of the Bill. Of these, two are relevant to Wales:

- The administrative costs of establishing a scheme to licence foreign fishing vessels; and
- The provision of financial assistance via future funding schemes that will replace the EMFF.¹⁰⁹

Evidence from stakeholders

Replacing the EMFF

144. There was broad support from stakeholders for the financial assistance powers. However, there were mixed views on whether the purposes for which financial assistance could be given were sufficiently wide to support the future development of Welsh fisheries. Professor Barnes stated:

"[The power] seems to be drawn in very wide terms, so there's very little associated with fishing that couldn't potentially fall within the remit of the Welsh Government in terms of providing financial support there."¹¹⁰

145. The WFA and CamNesa Consultancy expressed a different view and suggested that the purposes for which financial assistance could be given were narrow. The latter explained:

"If you compare [the purposes] against the current European programme for the European maritime and fisheries fund, this constitutes just a small part of that programme. I think that, if you look at some of the wider aspects of the Bill...from a financial perspective,

¹⁰⁸ www.assembly.wales/laid%20documents/lcm-ld11847/lcm-ld11847-e.pdf

¹⁰⁹ Bill <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0278/en/18278en01.htm>

¹¹⁰ RoP, para 98, 16 January 2019

then, it really does need to capture the whole chain and the whole opportunity.”¹¹¹

146. Professor Barnes believed that the provisions in relation to financial assistance should be explicitly linked to the fisheries objectives. He stated:

“This would mean any terms of the grants scheme would contribute to the achievement of the Fisheries Objectives. This would facilitate an alignment between developmental activities and the operational delivery of sustainable fisheries.”¹¹²

147. This position was echoed by ClientEarth.

Funding for replacement schemes

148. A number stakeholders referred to the current uncertainty in relation to future funding for the sector once the EMFF comes to an end. The WFA explained that, while the UK Government had guaranteed EMFF funding for applications approved before December 2020, there was no indication of funding levels for future schemes established via the UK Bill.¹¹³

149. WEL and Greener UK stated:

“We are concerned that to date there has been limited consideration given to the impact of the UK’s departure from the EU on funding for fisheries and marine environmental management in Wales. For example, LIFE and European Maritime & Fisheries Fund (EMFF) funding schemes have funded a significant number of Welsh Government’s and Natural Resources Wales’s MPA management activities.”¹¹⁴

150. They went on to say:

“We would urge Welsh Government to determine, in the context of Schedule 4 of the Fisheries Bill, the figure spent to date on fisheries and marine management from European funding to enable the Marine and Fisheries Division to be able to contribute effectively to discussions on replacement funding.”¹¹⁵

¹¹¹ RoP, para 225, 16 January 2019

¹¹² Written evidence, Professor Richard Barnes

¹¹³ RoP, para 228, 16 January 2019

¹¹⁴ Written evidence, WEL and Greener UK

¹¹⁵ Written evidence, WEL and Greener UK

151. Dr Stewart emphasised the need to ensure that “appropriate levels of financial support are available to Welsh fishermen through the Brexit process, and to support development of its fishing fleet, should Wales gain a greater share of UK quota in the future”.¹¹⁶

Future funding for fisheries policy

152. Griffin Carpenter said that funding for administration and monitoring and enforcement, was “at least as significant [an issue]” as funding for future schemes. He suggested that cost recovery could be used as a means of addressing this, given that “[industry] profits are increasing”. He stated:

“The way we manage most other resource industries, be that forestry or mining, aggregate extraction, if you use a public natural resource, you pay for it. So, it’s not a popular thing to say, but it’s not as crazy to say now as it used to be.”¹¹⁷

153. ClientEarth also raised concern about a lack of future funding for monitoring and enforcement and supported the introduction of a cost recovery mechanism.¹¹⁸

154. Professor Barnes explained that the potential for the Welsh Government to raise revenue to invest in Welsh fisheries was limited because of the size of the sector. He pointed out that, in future, Welsh fisheries would be competing against other sectors of the economy for funding.¹¹⁹ A similar point was raised by NUTFA, which highlighted that the fisheries sector would be competing against other political and public priorities, such as health and education.¹²⁰

Evidence from the Minister

155. The Minister stated she was “happy with the [financial assistance] powers”, but explained that the UK Government was yet to provide assurances about funding for Welsh fisheries post-Brexit.¹²¹

156. The Minister said she would “expect the same level of funding [as currently available through the EMFF]”.¹²² When asked to clarify the proposed timeline for

¹¹⁶ Written evidence, Dr Bryce Stewart

¹¹⁷ RoP, para 107, 16 January 2019

¹¹⁸ RoP, para 349, 16 January 2019

¹¹⁹ RoP, para 106, 16 January 2019

¹²⁰ RoP, para 249, 16 January 2019

¹²¹ RoP, para 217, 24 January 2019

¹²² RoP, para 227, 24 January 2019

the development and introduction of the new financial scheme, the Minister stated it was “probably a little bit too early” and that the Welsh Government was “[not] very far ahead at the moment”.¹²³ She explained that she “would want to consult [on draft regulations establishing the scheme]”.¹²⁴

157. The Minister’s official explained that there would be additional costs associated with the UK Bill. For example, those associated with licensing foreign fishing vessels, and increased monitoring and surveillance work. He also suggested that the Welsh Government would be seeking agreement from the UK Government on funding to meet this additional expenditure.¹²⁵

Our view

Following the UK’s exit from the CFP, EMFF funding will come to an end. A new system of financial support for Welsh fisheries will therefore be needed post-Brexit.

Under Schedule 4, Welsh Ministers will be able to provide financial assistance for a range of purposes. The Welsh Government has yet to publish proposals for fisheries policy in Wales post-Brexit. It is not in a position, therefore, to explain to the Assembly in detail the purposes for which the powers will be used. Without proposals for a future scheme, it is not possible to assess whether they are appropriate or suitably drawn.

Notwithstanding the above, we are encouraged that any future scheme must be made by regulations. This is a marked improvement on comparable financial assistance provisions in the UK Agriculture Bill. We welcome the Minister’s commitment to consulting on a proposed future scheme. While we do not question this commitment, we believe that Schedule 4 would be strengthened by including a requirement on Welsh Ministers to consult, for the sake of certainty and clarity.

We are concerned that funding arrangements for fisheries post-Brexit are yet to be determined. This must be addressed as a matter of urgency, not least to provide certainty for the sector. There is a lack of clarity about the steps the Welsh Government is taking to secure funding, including that which is needed to meet the additional costs arising from the UK Bill, for example the licensing of vessels. We do not expect Welsh fisheries to be any worse off as a result of

¹²³ RoP, para 219, 24 January 2019

¹²⁴ RoP, para 221, 24 January 2019

¹²⁵ RoP, para 231, 24 January 2019

Brexit. These additional costs should not mean a reduction in financial support for the sector.

We reiterate our recommendation in our report, *The impact of Brexit on fisheries in Wales*, that the Welsh Government should publish an ambitious and focused strategy to grow Welsh fisheries. We believe this should form the basis of an assessment of the long-term funding needs of the sector.

Finally, we are concerned about the lack of financial information that has been provided by the Welsh Government in support of the LCM for this UK Bill. We expressed similar concerns in relation to the LCM for the UK Agriculture Bill.

In both cases, the Welsh Government has said there will be “no direct financial implications” arising from each Bill. In contrast, the UK Government has informed Parliament that similar provisions will give rise to costs in several areas. This demonstrates a pattern of the Welsh Government providing limited financial information to the Assembly. This obstructs effective scrutiny and is not acceptable.

Conclusion 21. The UK Bill should be amended to require Welsh Ministers to consult on proposals for any future financial assistance scheme established under Schedule 4. We expect the Welsh Government to make representations to the UK Government in this regard.

Conclusion 22. There is merit in ensuring that any future financial support scheme is underpinned by the fisheries objectives. We believe that this should be considered as part of the Welsh Government’s *Brexit and Our Seas* consultation and should, if appropriate, form part of a future Welsh fisheries Bill.

Conclusion 23. The Welsh Government should seek a commitment from the UK Government that future funding arrangements for the fisheries sector will be developed in partnership with the devolved administrations and that there will be parity of esteem between partners. It should also seek a commitment that the level of funding should take account of any additional costs arising from the UK Bill.

Conclusion 24. There has been a severe lack of financial information provided in support of this, and other, Brexit-related LCMs that this Committee has been asked to consider. This has impaired scrutiny. Furthermore, the absence of such information risks misleading the Assembly about the potential financial implications arising from the legislation. The Welsh Government must address this matter. If it will not do so, we will request that the Finance Committee

consider this and, if necessary, bring forward appropriate amendments to Standing Orders.

8. Access to markets

The UK Bill does not address the issue of future trade arrangements with the EU. This is particularly important to Welsh fisheries.

158. In the UK, the majority of seafood caught is exported, predominately to the EU countries or through EU trade agreements, and the majority of seafood consumed is imported. 97% of Welsh shellfish is exported, either to the EU or to South Korea, through an EU free trade agreement.¹²⁶ Potential tariff and non-tariff barriers could significantly impact market access and competitiveness.

159. The nature of the relationship between the UK and the EU post-Brexit remains unclear. During withdrawal negotiations, the EU position has been that fisheries should form part of any transition agreement, with the UK complying fully with the CFP until any transition period ends.

160. On 14 March 2018 the European Parliament adopted its position on the framework for a future relationship between the EU and the UK. This states:

“...the access to the EU domestic market must be conditional on the access for EU vessels to the UK fishing grounds and their resource.”¹²⁷

161. On 23 March 2018 the European Council adopted its negotiation guidelines on the framework for the future EU-UK relationship.¹²⁸ The guidelines outline that a future Free Trade Agreement (FTA) between the EU and UK should include reciprocal access to fishing waters.

162. The UK Government’s White Paper on the Future relationship between the UK and the EU, and Defra’s Sustainable Fisheries for Future Generations White Paper (4 July 2018) paper stated that access to water and fishing opportunities was separate to access to markets for fish and fish products. The White Paper set out that “any decisions about giving access to UK waters for vessels from the EU, or any other coastal states will be a matter for negotiation”.

¹²⁶ <http://record.assembly.wales/Plenary/5419#A48213>

¹²⁷ www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2018-0069

¹²⁸ www.consilium.europa.eu/media/33458/23-euco-art50-guidelines.pdf

163. George Eustice MP reiterated this position in evidence to the House of Commons Environment, Food and Rural Affairs Committee on 17 July 2018. He stated:

“...negotiations on fisheries access and fisheries management as being one strand under an association agreement, and trade as being an entirely separate one. We do not see the two as being connected.”¹²⁹

164. As a result of this, the draft Withdrawal Agreement between the UK and EU, states that fishery and aquaculture products will not be covered by any temporary customs arrangement following the Brexit transition period, “unless an agreement on access to waters and fishing opportunities is applicable”. Arrangements on fisheries will be negotiated as part of the overall future partnership, with the two sides aiming to reach a deal by 1 July 2020.

165. An explanatory note, Protocol on Ireland and Northern Ireland, published by the European Commission states:

“An essential condition for this single customs territory to cover fisheries and aquaculture products will be to agree between the Union and the UK on access to waters and fishing opportunities.”

166. In emphasising the significance of the future trading relationship between the UK and the EU for Welsh fisheries, researchers from the “UK fisheries policy post-Brexit: multi-level challenges and opportunities” project stated:

“...issues around trade, export markets and tariff and non-tariff barriers are of more importance to the Welsh fishing industry than the question of improved quota allocation. All of this goes to highlight that the needs of the Welsh fishing industry are different from industry across the rest of the UK. This will need to be reflected in any post-Brexit fisheries arrangements.”

Evidence from stakeholders

167. Dr Stewart asserted that leaving the EU with no deal would be the worst case scenario for Welsh fishermen. He suggested that although this would result in moderate tariffs under World Trade Organisation rules, non-tariff barriers present a greater threat. He stated:

¹²⁹

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/environment-food-and-rural-affairs-committee/fisheries/oral/87074.html>

“These would result in delays to exports due to extra hygiene checks and processing of paperwork (e.g. catch certificates.) Even small delays in the existing supply chains could severely affect the price and therefore profitability of exports, particularly for shellfish, which are normally exported fresh or alive.”¹³⁰

168. Bangor Mussels Producers Limited expressed similar views. It referred to the high levels of exports for fish caught or produced in the UK and the reliance on EU markets, or preferential access to third countries through EU free trade agreements, and stated:

“Friction at the border/point of entry represents in some cases, quite existential challenges to the maintenance of these trading arrangements – all this is before factoring in any issues associated with direct cost mechanisms such as tariffs.”¹³¹

169. It noted that UK consumers were “conservative in their choices” and, while there might be some opportunity to increase domestic consumption of certain species, for example, monk fish and lobster, “this will remain price driven and will not in any meaningful proportion replace market space or value lost”.¹³²

Evidence from the Minister

170. The Minister stated that, regardless of any increase in Wales’ share of quota, “if there’s no market and there are tariffs...then I really fear for the aquaculture industry here”.¹³³ In particular, she referred to the shellfish industry as “vulnerable”.¹³⁴

Our view

Our report, *The impact of Brexit on fisheries in Wales*, highlights that access to markets is key to the survival of Welsh fisheries, given the importance of exports, in particular to EU countries.

At the time writing this report, a consensus on the terms on which the UK will leave the EU has yet to be reached. As this uncertainty continues, there is

¹³⁰ Written evidence, Dr Bryce Stewart

¹³¹ Written evidence, Bangor Mussels Producers Limited

¹³² Written evidence, Bangor Mussels Producers Limited

¹³³ RoP, para 212, 24 January 2019

¹³⁴ RoP, para 249, 24 January 2019

growing concern about the impact an unfavourable trade agreement, or no agreement at all, will have on the Welsh economy and the fishing industry.

Non-tariff barriers could have a profound effect on the industry. 90% of shellfish caught in Wales is exported to the EU, with many species transported live. Even marginal delays when exporting could have a severe impact on the viability of businesses.

The domestic market for shellfish is currently limited. While there may be opportunities to increase domestic consumption, this will not make up for the loss of, or impeded access to, EU markets.

In our report on *The impact of Brexit on fisheries in Wales*, we emphasised the need for the Welsh Government to take steps to mitigate the risks of Brexit on the fishing industry. In particular, by exploring the potential to increase demand for produce in the domestic market. We welcome the Minister's intention to consider the role of public procurement in increasing demand.

Conclusion 25. We reiterate the recommendation in our report *The impact of Brexit on fisheries in Wales*, that the Welsh Government should publish a focused and ambitious strategy to grow Welsh fisheries. The Welsh Government's consultation, *Brexit and our Seas*, will be published in March, and the outcome of this will inform the development of future fisheries policy. We expect the consultation to reflect the latest Brexit developments and to include proposals to mitigate the associated risks. In addition, the consultation should explore ways to support coastal communities, including through a requirement for a proportion of fish caught in the Welsh zone to be landed in Welsh ports.

9. Discard prevention charging schemes

The UK Bill makes provision for a charging scheme. The provisions will apply only in relation to England.

171. Article 15 of the CFP Regulations (which is unamended by the UK Bill) introduces a landing obligation, also known as the “discard ban”. The landing obligation requires all catches of regulated commercial species on-board to be landed and counted against quota. So, fish caught are no longer allowed to be discarded at sea. The landing obligation has been phased in across fisheries and species, with the full obligation coming into force on 1 January 2019.

172. Clauses 23 to 27 makes provision for the Secretary of State to establish, by regulations, a charging scheme allowing payment to be made for “an unauthorised catch of fish”. Registration with the scheme will be voluntary. These provisions only apply in relation to England. There are no corresponding provisions for Wales.

173. According to the Explanatory Notes accompanying the UK Bill, Clause 23 was included “to address the concerns on the impact of the discard ban”.¹³⁵

Evidence from stakeholders

174. Dr Stewart noted that the provisions in relation to a discard prevention charging scheme only apply in England and stated:

“...if the devolved nations chose different approaches this could cause enormous problems, with fishermen deciding where to land their catches based on which regime is most favourable to them. This example is one of many that highlight the need for a relatively common approach to fisheries management, right around the UK.”¹³⁶

175. The WFA considered the proposed scheme as “a partial solution to the problem of choke species associated with the full implementation of the Landings Obligation (Discard Ban) in 2019”. It suggested that the Welsh Government should seek corresponding provisions to help mitigate future risks of choke.¹³⁷

¹³⁵ <https://publications.parliament.uk/pa/bills/cbill/2017-2019/0278/en/18278en01.htm>

¹³⁶ Written evidence, Dr Bryce Stewart

¹³⁷ Written evidence, Welsh Fisherman’s Association

Evidence from the Minister

176. In explaining why the Minister had chosen not to seek powers in the UK to establish a discard prevention charging scheme, she stated:

“Given the nature and size of the fishing industry in Wales meant we do not face the same challenges with the landings obligation as other parts of the UK.”¹³⁸

177. However, she also explained that “solutions to the landings obligation will be considered appropriately as part of [the development of a future Welsh fisheries Bill]”.¹³⁹

Our view

The aim of the proposed discard prevention charging scheme for England is to mitigate the impact of the current landing obligation on the industry.

We believe that the Welsh Government, in conjunction with Welsh fisheries sector, is best placed to design an approach that is tailored to the needs of the sector in Wales. We are pleased that the Minister has given a commitment to considering appropriate solutions as part of the development of the future Welsh fisheries Bill.

Conclusion 26. The Welsh Government should consider, as part of its *Brexit and Our Seas* consultation, whether it would be appropriate to bring forward a discard prevention charging scheme in a future Welsh fisheries Bill.

¹³⁸ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

¹³⁹ Letter from the Minister for Environment, Energy and Rural Affairs to the Chair of Climate Change, Environment and Rural Affairs Committee, 22 January 2019

Annex A: Written evidence

The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at: [**Consultation Responses**](#)

Ref	Organisation
FB 01	New Under Ten Fishermen's Association (NUTFA)
FB 02	Bangor Mussel Producers Ltd
FB 03	Dr Bryce D Stewart, University of York
FB 04	New Economics Foundation
FB 05	Wales Environment Link and Greener UK
FB 06	Welsh Fisherman's Association Limited
FB 07	Wales Environment Link
FB 08	Professor Richard Barnes, University of Hull

Annex B: Oral Evidence

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at:

Transcripts

Date	Name and Organisation
16 January 2019	<p>Professor Richard Barnes, Associate Dean for Research, University of Hull</p> <p>Griffin Carpenter, Senior Researcher, New Economic Foundation</p> <p>Dr Bryce Stewart, Programme Leader BSc/MEnv Environmental Science, University of York</p> <p>Jim Evans, Chairman, Welsh Fishermen’s Association</p> <p>Jon Parker, Director, CamNesa Consultancy</p> <p>Jeremy Percy, Director, New Under Ten Fishermen’s Association</p> <p>Debbie Crockard, Senior Fisheries Policy Advocate (Marine Conservation Society) representing Greener UK</p> <p>Sarah Denman, UK Environment Lawyer, ClientEarth</p> <p>Emily Williams, Marine Policy Officer (RSPB) representing Wales Environment Link</p>
24 January 2019	<p>Lesley Griffiths AM, Minister for Environment, Energy and Rural Affairs</p> <p>Robert Floyd, Head, Marine and Fisheries EU Transition</p> <p>Graham Rees, Deputy Director Marine and Fisheries Division</p>