

UK Fisheries Bill 2019-21

Research Briefing

May 2020



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Welsh Parliament
Tŷ Hywel
Cardiff Bay
CF99 1SN

Tel: **0300 200 7350**

Email: **Emily.Williams@senedd.wales**

Twitter: **[@SeneddResearch](https://twitter.com/SeneddResearch)**

Blog: **SeneddResearch.blog**

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Author:

Emily Williams

On 6 May the National Assembly for Wales became the Welsh Parliament, to be commonly known as Senedd. As a result, references in this research briefing reflect the change of name, referring to the institution as the 'Assembly' in a historical context (prior to 6 May) and 'Senedd' thereafter.



Contents

1.Background.....	1
2.Legislative consent	3
2.1. Summary of the Bill	3
2.2. Provisions for which consent is/is not required	3
2.3. Rationale provided for making these provisions for Wales in a UK Bill	4
3.The 2017-19 Fisheries Bill.....	5
4.Differences from the 2017-19 Bill	6
4.1. Fisheries objectives.....	6
4.1.a Changes to the objectives	6
4.1.b Changes to the objectives sought by the CCERA Committee	8
4.1.c Stakeholder comments on the objectives	9
4.2. Changes to the JFS provisions	10
4.2.a Stakeholder views on the JFS and FMPs	11
4.3. New provisions for the sale of rights to Welsh catch quotas or effort quotas	13
4.3.a Stakeholder views on the sale of rights to Welsh catch quotas or effort quotas.....	13
4.4. Broadening of financial assistance powers.....	14
4.5. New provisions in relation to imposing charges	14

5. Additional considerations	16
5.1. The Welsh Government’s position regarding clauses 23 and 24	16
5.2. Extent of powers and legislating via a UK Bill.....	17
5.3. Queries over which powers are necessary in the UK Bill	18
5.4. Extension of legislative competence.....	18
5.5. Compliance with international obligations.....	19
5.6. Amendments to the Marine and Coastal Access Act (2009).....	19
5.7. Access arrangements.....	20
5.7.a Licensing of other UK vessels in Welsh waters.....	21
5.7.b Exceptions to licensing requirements and dispute resolution mechanisms.....	22
5.8. Quota allocation for shared stocks.....	22
5.9. Distribution of quota across the UK	23
5.10. Distribution of fishing opportunities according to criteria	25
5.11. Fishing limits (Maximum Sustainable Yield)	26
5.11.a Stakeholder views on fishing limits and MSY	27
5.12. Enforcement of fisheries regulations	28
5.13. Trade	28
5.14. Aquaculture	29
6. Further information	30

1. Background

The **Fisheries Bill 2019-2021** ('the 2019-21 Bill') aims to provide a legal 'Fisheries Framework'; ensuring some commonality of approach to fisheries management across the UK after it has left the EU and the **Common Fisheries Policy (CFP)**. It is also designed to address the UK's commitments under the **United Nations Convention on the Law of the Sea (UNCLOS)** (with regards to fishing activities in UK waters). The **Explanatory Memorandum (EM)** for the Bill states that it:

... creates common approaches to fisheries management between the Secretary of State for Environment, Food and Rural Affairs (the 'Secretary of State') and the Devolved Administrations, known collectively as the Fisheries Administrations, and makes reforms to fisheries management in England.

The 2019-21 Bill was introduced in the House of Lords on 29 January 2020 and had its second reading on 11 February 2020. A **Committee stage** began on 2 March in the House of Lords. At the time of writing this briefing a report stage has yet to be scheduled. The Welsh Government laid a **Legislative Consent Memorandum (LCM)** (PDF 125 KB) for the 2019-21 Bill before the National Assembly for Wales on 12 February 2020.

The LCM summarises the provisions in the 2019-21 Bill that the Welsh Government believes require legislative consent from the Senedd. The provisions cover:

- policy objectives in relation to fisheries, fishing and aquaculture, fisheries statements and fisheries management plans;
- access to British fisheries;
- the licensing of fishing boats;
- the determination and distribution of fishing opportunities;
- schemes to be established for charging for unauthorised catches of sea fish;
- grants in connection with fishing, aquaculture or marine conservation;
- the recovery of costs in respect of the exercise of public functions relating to fish or fishing;
- to confer powers to make further provision in connection with fisheries, aquaculture or aquatic animals; and
- to make provision about byelaws and orders relating to the exploitation of sea fisheries and for connected purposes.

The **Climate Change, Environment and Rural Affairs (CCERA) Committee** took **evidence from stakeholders on 11 March 2020** to inform its consideration of the LCM. It also **wrote to the Minister** for Environment, Energy and Rural Affairs, Lesley Griffiths, ('the Minister') on the 17 April 2020. The **Minister responded** on 1 May 2020.

The **Legislation, Justice and Constitution (LJC) Committee** (formerly the Constitutional and Legislative Affairs (CLA) Committee) took **evidence from the Minister on 16 March 2020**.

The Committee's published their reports on 21 May 2020:

- **CCERA report on the LCM (PDF 326KB)**; and
- **LJC report on the LCM (PDF 2MB)**.

The contents of this briefing have been written in advance of the publication of these reports. It therefore draws primarily from the evidence sessions held by the Committees and their work on the previous **2017-19 UK Fisheries Bill** ('the 2017-19 Bill') (discussed below).

Additional briefings have also been published on:

- **The Common Fisheries Policy and fisheries management in Wales post-Brexit** (PDF, 2.6MB); and
- **Frequently asked questions on the 2019-21 Fisheries Bill**.

2. Legislative consent

The [LCM for the 2019-21 Bill](#) contains the following key sections:

- Summary of the Bill;
- Provisions in the Bill for which consent is required;
- Provisions in the Bill for which consent is not required;
- Reasons for making these provisions for Wales in the Fisheries Bill;
- Financial implications; and
- Conclusion.

2.1. Summary of the Bill

The LCM's summary of the 2019-21 Bill highlights that "at the request of Welsh Government, the Bill includes powers for the Welsh Ministers".

2.2. Provisions for which consent is/is not required

The UK Government sets out in its [Explanatory Memorandum \(EM\)](#), that all provisions in the 2019-21 Bill except for four clauses (**clauses 4, 5, 23 and 24**) require the legislative consent from the Senedd. However, according to the Welsh Government's LCM, the Welsh Government believes that **clauses 23 and 24 do require legislative consent** (although no analysis of this conclusion has been provided in the LCM). In contrast, unlike the UK Government, the Welsh Government **does not consider** that four further **clauses (28 to 32)** require legislative consent. Similarly, no analysis of this conclusion has been provided in the LCM.

The Minister told the [LJC Committee on 16 March 2020](#) that in her view **clauses 28 to 32** do not require legislative consent from the Senedd:

... because they're to do with the regulation of English fishing boats relating to a discards prevention scheme, so, that is a matter for the Secretary of State.

The Minister also reiterated her view that **clauses 23 and 24** do require legislative consent. This is explored in more detail in subsequent sections of this briefing.

2.3. Rationale provided for making these provisions for Wales in a UK Bill

In the 2019-21 Bill LCM, the Minister provides a number of reasons for making provisions for Wales in a UK Bill. These can be broadly summarised as:

- to provide “a uniform set of powers, obligations and objectives” for the UK and devolved administrations;
- to take powers “as an interim measure until a Wales Fisheries Bill is brought forward to the Assembly”;
- “Until this Bill is passed, within the current devolution arrangements, a[n] Assembly Bill would only be able to deal with the necessary administrative arrangements in relation to Wales (but not the wider Welsh zone), resulting in a lack of coherence, and reliance in part on the UK Bill and in part on a Wales Fisheries Bill”; and
- “To enable us to act quickly and decisively in Wales, in an uncertain future”.

During consideration of the LCMs for both the 2017-19 and 2019-21 Fisheries Bills, concerns have been raised by Senedd Committees **about the extent of provisions relating to Wales being made via the UK Bill** (this is explored further in additional sections of this briefing).

3. The 2017-19 Fisheries Bill

The 2019-21 Bill is similar to the [2017-19 Bill](#). The 2017-19 Bill had its second reading in the House of Commons in November 2018 and **ten sittings** in a public bill committee in December 2018. The Bill fell when the UK Parliament was **prorogued** in December 2019. The Welsh Government laid the [LCM for the 2017-19 Bill](#) before the Assembly on 15 November 2018 and a [Supplementary LCM for the 2019-17 Bill](#) on 10 January 2019. The [CCERA Committee](#) (PDF 788KB) and [CLA Committee](#) (PDF 557KB) both published reports on the LCM on 12 February 2019.

The Committees raised a number of concerns through their respective reports. These are highlighted throughout this briefing. In conclusion, the CLA Committee felt unable “to express a view as to whether the National Assembly should provide its consent to the clauses of the Bill referred to in the LCM and supplementary LCM”. The CCERA Committee recommended that the Assembly give consent to the provisions in the UK Fisheries Bill but subject to conditions being met. These conditions related to the Welsh Government:

- seeking amendments to the UK Bill, as described in the CCERA Committee’s report; and
- providing the commitments and clarifications outlined in the conclusions of CCERA Committee’s report.

The Welsh Government [responded](#) (PDF 374 KB) to the CCERA Committee’s report and the CLA [Committee’s report](#) (PDF 394 KB) on the 27 March 2019.

The Welsh Government’s response to the CCERA Committee did not appear to satisfy the Committee as the Chair [wrote to the Minister again](#) (PDF 1.73 MB) seeking further information and clarity. The Welsh Government published its [response to the Committee’s report](#) (PDF 1.73 MB) on 8 May 2019.

An Assembly debate on the LCM was never held as progress on the Bill stalled prior to it falling (following the UK Parliament being **prorogued**). The CCERA Committee’s [letter sent to the Minister](#) on 17 April 2020 highlights that some of the amendments sought by the Committee (with regards to the 2017-19 Bill) have not been addressed in the 2019-21 Bill.

4. Differences from the 2017-19 Bill

The 2019-21 Bill is **broadly similar to the 2017-19 Bill**. However some key changes which relate to matters of the Senedd's competence include (but are not limited to):

- changes to the fisheries objectives;
- changes to the joint fisheries statement (JFS) provisions;
- an additional power for the Welsh Ministers to make regulations enabling the sale of rights to Welsh 'catch quotas' or 'effort quotas';
- broadening of financial assistance powers; and
- an additional power for the Welsh Ministers to impose charges for carrying out functions relating to the regulation of marine activities.

4.1. Fisheries objectives

Clause 1 of the UK Bill sets out the UK's 'fisheries objectives' for the UK Government and the devolved administrations. The fisheries policy authorities (FPAs) (which include the Welsh Ministers) must set out policies for achieving, or contributing to the achievement of these objectives within a JFS (**clause 2**).

4.1.a Changes to the objectives

There are changes to the wording of some of the fisheries objectives in the 2019-21 Bill, as compared to the 2017-19 Bill. For example, the sustainability objective now includes an additional part:

The fishing capacity of fleets is such that fleets are economically viable but do not overexploit marine stocks.

Furthermore, the 2019-21 Bill includes new objectives (the 'national benefit', 'climate change' and 'bycatch' objectives) and does not include one of the objectives previously listed (the 'discards' objective).

Additional objectives

The following additional objectives have been included in **clause 1**:

The **national benefit objective** is that—
fishing activities of UK fishing boats bring social or economic benefits

to the United Kingdom or any part of the United Kingdom.

The **climate change objective** is that—

- (a) the adverse effect of fish and aquaculture activities on climate change is minimised, and
- (b) fish and aquaculture activities adapt to climate change.

The **bycatch objective** is that—

- (a) the catching of fish that are below minimum conservation reference size, and other bycatch, is avoided or reduced,
- (b) catches are recorded and accounted for, and
- (c) bycatch that is fish is landed, but only where this is appropriate and (in particular) does not create an incentive to catch fish that are below minimum conservation reference size.

Clause 48 defines bycatch as:

- (a) fish that are caught in the course of fishing for fish of a different description, or
- (b) animals other than fish that are caught in the course of fishing.

Deleted discards objective

The discards objective within the 2017-19 Bill is not included in the 2019-21 Bill. This objective was:

The 'discards objective' is to gradually eliminate discards, on a case-by-case basis, by—

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

Whilst the discards objective related to all species caught, including targeted fish species, it is not clear how the bycatch objective will be interpreted alongside the definition of bycatch under **clause 48** (which only relates to fish that are caught in the course of fishing for fish of a different description). It is not clear whether the term 'different description' includes fish of the same species but with different characteristics (for example, undersized fish).

Whilst the discards objective included a provision to gradually ensure all catches were landed, the bycatch objective only specifies that catches defined as 'bycatch' are landed and only where appropriate. It therefore appears that any

fish specifically targeted but exceeding the quota held for that stock may not be captured within the bycatch objective. Nonetheless, a 'landing obligation' would still apply under **Article 15** of the **CFP Regulations**.

In **response to a question from the CCERA Committee** (PDF, 775KB) on this matter, the Minister said it was “the retention of the Landing Obligation” which “will require the landing of target species in excess of authorised quota limits for a vessel”. However, the Minister also said “following the end of the Implementation Period [Brexit transition period], we will be able to develop a discards policy or policies to best fit our industries and protect the marine environment”.

4.1.b Changes to the objectives sought by the CCERA Committee

In relation to the fisheries objectives, the CCERA Committee's report on the previous 2017-19 Bill LCMs highlighted its disappointment that the Bill did not include “a requirement not to exceed [Maximum Sustainable Yield] MSY limits by 2020”. The Committee also agreed “with stakeholders that the absence of a duty in the UK Bill to deliver the fisheries objectives is a significant weakness”.

The Committee called for the Welsh Government to seek an amendment to the Bill which would require the UK administrations to undertake a joint review of the fisheries objectives to ensure they are fit for purpose (conclusion 8). It also concluded that the Welsh Government should explore, through its **Brexit and our Seas consultation**, whether it is appropriate to include a duty on Welsh Ministers in a future Welsh Fisheries Bill to take all reasonable steps to achieve the fisheries objectives (conclusion 9). The Minister accepted both of these conclusions.

However, no requirement to review the fisheries objectives has been included in the 2019-21 Bill. A duty in relation to the fisheries objectives was not referenced in the **consultation document** of the Brexit and our Seas consultation, which was open from the 1 May 2019 to 21 August 2019.

There **remains no duty on the fisheries authorities to deliver the fisheries objectives**. Rather, as highlighted, the FPAs must set out policies for achieving, or contributing to the achievement, of these objectives within a JFS (**clause 2**). The FPAs are required to pursue the policies outlined in the relevant fisheries statements (or fisheries management plans) that are applicable to them unless a

relevant change in circumstances indicates otherwise (**clause 10**).

4.1.c Stakeholder comments on the objectives

New bycatch objective and removal of the discards objective

During the CCERA's Committee **evidence session with stakeholders** on 11 March 2020, most stakeholders reacted positively to the new bycatch objective. The Welsh Fisherman's Association (WFA) commented that the bycatch objective "requires catches to be recorded and accounted for ... that's an essential part of stock and species monitoring and scientific assessment". Client Earth welcomed the breadth of the bycatch objective which "covers cetaceans and endangered species".

Dr Bryce Stewart **wrote in evidence** to the CCERA Committee that:

... there is overlap between these objectives, but also important differences. The 'Discards' objective was focussed on gradually reducing discarding of fish (across all sizes) and ensuring all were landed. This was closely aligned with the Landing Obligation in the CFP, although there was no indication of time-period for its implementation.

In relation to the bycatch objective (but primarily commenting on **clause 28** of the 2019-21 Bill which provides for discard prevention charging schemes in England), both WFA and Greener UK cautioned whether having different approaches to discarding in different countries could result in a situation where it might be more beneficial to fish in one country over another.

National benefit objective

In evidence to the CCERA Committee on the 2019-21 Bill, stakeholders raised queries over the applicability of the national benefit objective to different fishing vessels. For example, Dr Stewart wrote "the specific rules around this objective have not been developed. It is also unclear how it might apply to foreign (e.g. EU) vessels fishing in UK waters." The WFA told the Committee:

As I understand it, the national benefit objective relates to strengthening the economic link requirements of, shall we call it, UK flag vessels [UK vessels which are foreign owned]...that's been a historic weakness that hasn't provided the necessary economic links to Wales.

Professor Barnes suggested that the national benefit objective seemed to be a compromise between recognising that "fisheries are a kind of public good" and avoiding "what you call 'property issues', where they basically say who is the owner of them". Griffin Carpenter from the New Economics Foundation (NEF) agreed and suggested that the objective did not sufficiently deal with privatisation of a public

resource.

Climate change objective

A number of witnesses welcomed the addition of the climate change objective. For example, Dr Stewart welcomed the climate change objective's aims and wrote "they are also quite progressive; few other countries around the world have incorporated climate change elements into their fisheries management plans." However, Bangor Mussel Producers Ltd and the WFA raised concerns that the climate change objective does not recognise the positive contribution that aquaculture can make through carbon storage and other environmental benefits.

Lack of duty to deliver the objectives

In relation to the lack of duty to achieve the objectives, NEF told the CCERA Committee:

...this is a weaker standard than the CFP. It's aspirational in the objectives, and then you need to say how you're meeting those objectives, so there'll be lots of text produced in the future on sustainability but that's different from actually seeing a change in how fishing is conducted, and that's a problem.

When asked if the lack of duty to deliver the objectives in the Bill is still an omission, Professor Barnes said "I think that is still the case" but expanded "that the mechanisms, or the pathways, for actually delivering the objectives are a lot better". Client Earth said the lack of a duty to achieve the objectives was one of its biggest concerns. However, the WFA cautioned that "you can put hard objectives and timescales into legislation that become impossible and have a lot of unintended consequences that go with that".

4.2. Changes to the JFS provisions

Clause 2 of the 2019-21 Bill requires the FPAs to prepare and publish a JFS within 18 months of the Act passing. A similar requirement was included in the 2017-19 Bill, however, the deadline for the JFS in that Bill was before 1 January 2021. **Clause 11** also introduces a new requirement to report on the JFS and to lay it before the Senedd, a requirement the CCERA Committee previously sought in its 2017-19 Bill LCM report.

Unlike the previous Bill, the 2019-21 Bill requires a JFS to include a statement relating to Fisheries Management Plans (FMP). In the Act, a FMP is described as a document, prepared and published under the Act, that sets out policies designed

to restore one or more stocks of sea fish to, or maintain them at, sustainable levels. **FMPs are a new feature** of the 2019-21 Bill. Amongst other things, the statement in the JFS should set out the FPA's reasons for deciding which stocks of sea fish, types of fishing and geographical areas should be subject to FMPs and which should not.

4.2.a Stakeholder views on the JFS and FMPs

JFS

In written evidence to the CCERA Committee, Professor Richard Barnes said “the precise status of the JFS is unclear since it will seek to coordinate fisheries policies within the UK – so may in effect curtail or direct the exercise of fisheries powers at the devolved level”. He also said the deadline of 18 months from the Bill becoming an Act to create the first JFS could have challenges regarding “how the positions of the different devolved administrations are reconciled”.

Circumstances in which JFS can be disregarded

The majority of evidence to the CCERA Committee on the JFS related to the new definition of circumstances under which the JFS can be disregarded. Written evidence from the Marine Conservation Society (MCS), the Royal Society for the Protection of Birds Cymru (RSPB Cymru) and Client Earth stated that the 2019-21 Bill:

... introduces a definition of what constitutes a ‘relevant change in circumstances’, including ‘evidence relating to the social, economic or environmental elements of sustainable development’. This could mean that policies intended to recover fish stocks or contribute to the sustainable management of fisheries could be disregarded if they could have a negative impact on the profitability of the fishing industry.

In written evidence, Professor Barnes suggested the need for:

...a general caution about the link between the objectives contained in the JFS, then put into operational terms in the Fishery Management Plans (FMPs), will be the extent to which there is adequate scrutiny and accountability for achieving objectives.

Requirements relating to FMPs

Dr Stewart wrote that “despite the generally positive high-level ambitions of the new Fisheries Bill, many concerns and potential loop-holes remain”. He highlighted that the main instrument for ensuring sustainability in the future is the

development of FMPs for each fish stock but questioned whether a plan is “the same as a legal commitment – as promised in the **Conservative Party’s election manifesto** and considered to be best practice (as in the **US Magnuson-Stevens Act**)”. He further explained that “it is also unclear if stocks are to be restored to, or maintained at, sustainable levels” and “in comparison, the CFP makes firm commitments on these issues (although admittedly, many won’t be achieved)”.

The MCS, RSPB Cymru and Client Earth expressed similar concerns in written evidence. As with the JFS, the organisations were concerned that the FMPs themselves can be disregarded if there is a “relevant change of circumstances”. They also stated that:

... there are no safeguards in the Fisheries Bill on how the fisheries management plans will recover stocks and there are no timeframes for when an authority must publish a plan or when a plan must deliver recovery of a stock.

The NEF also highlighted a lack of timescale for stock recovery and suggested that having timescales for this is what “world-leading fisheries looks like”. It highlighted that “in the US, they’re actually very prescriptive on this point about what defines an overfished stock and then how long you have to recover that”. Client Earth said that in the US “a management plan must deliver recovery of a particular stock within 10 years of the plan being implemented”.

In written evidence to the CCERA Committee, Dr Stewart questioned which stocks FMPs will be produced for:

... it will clearly not be possible for all stocks given current data gaps, particularly for inshore fisheries. However, the Fisheries Bill currently allows a ‘pick and mix’ approach, at odds with its stated objective of delivering precautionary and ecosystem-based management.

The MCS, RSPB Cymru and Client Earth called for “a requirement for a fisheries management plan to be introduced for all commercially exploited stocks and any other stocks that fall below sustainable levels”.

In relation to how FMPs will be produced for stocks managed between the UK and other countries, Dr Stewart wrote that:

... the future management of shared stocks remains a further concern. Apparently, the new fisheries management plans will ‘recognise’ that many fish stocks are shared between jurisdictions. ‘Recognise’ sounds somewhat noncommittal.

Greener UK told the CCERA Committee in its evidence session that there is only

one fin-fish stock that exists solely in UK waters.

4.3. New provisions for the sale of rights to Welsh catch quotas or effort quotas

Schedule 5 of the 2019-21 Bill confers powers on the Welsh Ministers to make regulations to make provision for the sale of rights for Welsh catch quota and effort quota for a calendar year. 'Catch quota' means a quantity of sea fish which is permitted to be caught, whilst 'effort quota' means a number of days at sea that a fishing vessel is permitted. The 2017-19 Bill conferred similar powers on the Secretary of State for the sale of English catch and effort quota but no such provisions were included for Wales. **Schedule 5** does not extend to Scotland or Northern Ireland.

The 2019-21 Bill states that the regulations made by the Welsh Ministers may include provision requiring or permitting rights to be sold, or not to be sold, to a person who meets such conditions as may be specified in or in accordance with the regulations. **The Bill does not specify what conditions the Welsh Ministers may place within regulations or that certain conditions must be included.**

Unlike the 2017-19 Bill, amendments (**clause 25**) to **Article 17** of the **CFP regulations** are applicable to the functions of the Welsh Ministers. Article 17 makes provision about the criteria to be applied when deciding how fishing opportunities are to be distributed for use by individual fishing boats.

4.3.a Stakeholder views on the sale of rights to Welsh catch quotas or effort quotas

In relation to **schedule 5**, Dr Stewart wrote in evidence to the CCERA Committee that these powers are:

... in anticipation of Welsh vessels gaining extra quota after Brexit, but not having the immediate capacity available to utilise it. Of course, whether or not this extra quota actually eventuates is highly uncertain at this stage of the UK-EU negotiations.

The WFA commented that, in relation to these provisions, it had been a "bit nervous about the word 'sale'". However it expanded that "that sale only applies to a calendar year. That is more consistent with what we'd hoped". The WFA further described how these provisions could be used to ensure benefits for the Welsh industry:

... if, for example, Wales wasn't able to meet the allocation it has

been provided, the surplus there could be leased out in-year, while in the meantime we build the capacity of our fleets to realise those opportunities going forward, and along with that develop the infrastructure then to make sure that we maximise the economic benefits to Wales.

In her [letter to the CCERA Committee](#) on 1 May 2020, the Minister said:

There are no set plans to bring forward a scheme of this kind at this time. The detail of any future arrangements are yet to be determined and I can confirm if we consider bringing in a scheme using the powers within Schedule 5, a consultation process will occur to inform Welsh Government of the strength of feeling and balance of opinion on such a scheme.

4.4. Broadening of financial assistance powers

Financial assistance for fisheries, through the UK's membership of the EU and CFP, was primarily given through the [European Maritime Fisheries Fund \(EMFF\)](#). **Clause 33** provides the Secretary of State with powers, through regulations, to give financial assistance, or to arrange for such assistance to be given, to any person for certain purposes. **Schedule 6** provides equivalent powers for the devolved administrations, including the Welsh Ministers. **Schedule 6, clause 2(1)** specifies the purposes for which the Welsh Government may provide financial assistance under this schedule. **The list of purposes has been expanded from the 2017-19 Bill.**

In relation to financial assistance schemes, the CCERA Committee made several conclusions in its report on the 2017-19 Bill LCM seeking such schemes to:

- be consulted upon;
- be underpinned by the fisheries objectives; and
- developed in partnership.

The 2019-21 Bill does not **require** the schemes to be developed in these ways.

Stakeholder evidence to the CCERA Committee on the financial assistance powers was generally positive.

4.5. New provisions in relation to imposing charges

Schedule 7 confers powers on the Welsh Ministers to make regulations to impose charges in respect of:

- functions relating to fishing quotas, to ensure that fishing activities are carried out lawfully;
- registration of buyers and sellers: and
- **catch certificates**.

The Welsh Ministers must consult such persons as they consider appropriate before exercising this power. The regulations are subject to approval by the Senedd by the negative resolution procedure. These provisions were not included for Welsh Ministers in the 2017-19 Bill.

In evidence to the CCERA committee, the WFA raised concerns over the ability of the Welsh fishing fleet to withstand costs and charges but said that it understood that there may be a purpose for these provisions at a later time. However, it suggested that it expected there to be consultation prior to the use of these provisions.

5. Additional considerations

5.1. The Welsh Government's position regarding clauses 23 and 24

As highlighted, unlike the UK Government, the Welsh Government believes legislative consent is required for **clauses 23 and 24**. The Welsh Government's LCM for the 2019-21 Bill states (emphasis added):

Clause 23 provides a **broad power** for the Secretary of State to set UK quotas, which could as drafted apply to stocks of fish species which are **only present wholly within the waters of one of the devolved administrations**.

However, unlike the **LCM for the 2017-19 Bill**, the LCM for the 2019-21 Bill does not provide any further information on the Welsh Government's position.

The previous LCM stated in relation to the corresponding clause (**clause 18**) (emphasis added):

Clause 18 provides that the Secretary of State will set the total UK fishing opportunities (in terms of both the maximum quantity of sea fish and the maximum numbers of days that British fishing boats may spend at sea) only for the purposes of complying with international obligations to determine fishing opportunities in the UK. **We are not content with the drafting of Clause 18...**

In its **2017-19 Bill LCM report** (PDF 788KB), the CCERA Committee said it shared "the Welsh Government's concern about the extent of the Secretary of State's power to determine fishing opportunities". The Committee considered whether an intergovernmental agreement would satisfy these concerns but determined that an amendment to the Bill was the "most appropriate way to address concerns in relation to clause 18".

The CLA Committee's **2017-19 Bill LCM report** (PDF 557KB) also included concerns regarding **clause 18**. The Minister told the LJC Committee on 16 March 2020 that:

The UK Government is firmly of the belief that it's a reserved matter and we remain of the view that consent is required ... So, I've reached an agreement with the UK Government to set out in the UK fisheries framework memorandum of understanding more detail on the intended use of the power within clause 23 and what the strengthened consultation processes are. Officials continue to work on this ...

When asked if the MoU was in place, the Minister confirmed “that’s still being drafted and discussed”. In response to a question on whether the MoU would include a dispute resolution mechanism, the Minister’s official responded:

... we’re still considering whether there will be a dispute resolution within the MOU itself or will it be part of the broader dispute-resolution mechanisms that are being put in place between Welsh Government and UK Government and the Department for Environment, Food and Rural Affairs in particular. So, that’s still up for discussion, but we’re clear that there needs to be a robust dispute-resolution mechanism in place to allow us to work through that.

The LJC Committee asked whether **clause 23** was a ‘red line’ for the Minister. She responded:

Yes, it is, and I’ve said that I could only recommend it if we sort this issue out. But I am confident that the MOU will be in place by the end of the implementation period. If I’ve got what we want in the MOU, and we’ve got that necessary reassurance in place, then I would be happy to recommend it.

5.2. Extent of powers and legislating via a UK Bill

The CCERA and CLA Committees both raised concerns about the extent of the powers being sought via the UK Bill within their 2017-19 Bill LCM reports. The CCERA Committee concluded that whilst “legislation is needed to establish a UK common framework for fisheries management ... the Bill contains additional provisions which exceed those which are necessary to establish such a framework”.

The CLA Committee also said in its report that:

We have become increasingly concerned about a transfer of powers from the National Assembly as the legislature to the Welsh Government as the executive. This concern is amplified where powers are delegated to the Welsh Ministers through a UK Bill, which Assembly Members are not directly able to influence through tabling amendments as a means of testing and potentially improving the legislation.

The CLA Committee went on to state:

Whilst the Bill creates a common framework, the extensive regulation making and executive powers it provides to the Welsh Ministers should not be overlooked.

The Minister **told the LJC Committee** on 16 March 2020 that:

The common framework powers relate to fisheries objectives, joint fisheries statements and the fisheries management plans and the access and licensing provisions.

In her [letter to the CCERA Committee](#) on 1 May 2020, the Minister said that the powers for Wales in the 2019-21 Bill are “an interim measure until a comprehensive Welsh Fisheries Bill” can be brought forward but that she “cannot be certain on timings and it is certainly not possible to bring a Bill forward before the end of this Assembly”. The Minister also reiterated her position that it is not appropriate to include a sunset clause in the 2019-21 Bill, in particular because a timescale for the introduction of a Welsh Fisheries Bill has not yet been determined.

5.3. Queries over which powers are necessary in the UK Bill

The CCERA Committee’s 2017-19 LCM report concluded that further explanation was required, in particular for the Welsh Ministers’ powers contained in:

- **schedule 4** (financial assistance);
- **schedule 6** (powers to make further provision); and
- **schedule 7** (powers relating to the exploitation of sea fisheries resources).

The Committee [wrote to the Welsh Government on 5 April 2019](#) (PDF 1.73 MB) with further questions relating to these schedules. The letter states that whilst the Minister had accepted the relevant conclusions in the report, her original response was “not as comprehensive as we would have expected”. The Minister [responded on 17 April 2019](#) (PDF 1.73 MB) to provide further explanation of these powers. For example, she said “it is wise to seek these enabling powers now to achieve parity with the other Fisheries Administrations and enable us to respond to the emerging situation, whether these powers are needed immediately on EU Exit or on a longer term basis.”

These powers remain in the 2019-21 Bill under **schedule 6, schedule 8 and schedule 9** respectively (with the breadth of the powers under **schedule 6** having been expanded). The powers are not time limited, as no sunset clause is currently included within the Bill.

5.4. Extension of legislative competence

As with the 2017-19 Bill (as amended), the 2019-21 Bill (**clause 43**) amends the [Government of Wales Act 2006](#) (the 2006 Act). Specifically, it extends the legislative competence of the Senedd to enable it to make primary legislation on matters relating to fishing, fisheries or fish health in the area of the ‘Welsh zone’ beyond the seaward limit of the territorial sea (beyond 12 nautical miles from the shore).

Section 158 of the 2006 Act defines the Welsh zone as being the sea adjacent to Wales which is within British Fishery Limits or otherwise specified in an order made under that Act. This amendment means that a Welsh Fisheries Bill, which applies to all Welsh waters, could be passed by the Senedd.

The definition of the Welsh zone is a separate definition to the definition of 'Wales' under the 2006 Act. As a result, legislation such as the **Environment (Wales) Act (2016)** which uses the definition of 'Wales' in the 2006 Act, does not apply to the Welsh zone despite the Senedd's legislative competence being extended to include this area.

In evidence to the CCERA Committee on 11 March 2020, the WFA welcomed the extension of legislative competence under **clause 43**.

5.5. Compliance with international obligations

Client Earth told the CCERA Committee on 11 March 2020 that it was concerned the 2019-21 Bill did not comply with international law. It said:

... one of our biggest concerns in this version of the Bill is that it seems to give even more discretion to authorities to depart from both the policy statement and the new fisheries management plans, and there also continues to be no binding commitment to set fishing limits in line with sustainable levels. Now, as before, that very much represents a regression in environmental standards from the common fisheries policy, but it also is in breach of international law. So, we've got sustainable development goal 14, which is to end overfishing by 2020. So, you can imagine these provisions in the Bill are not going to achieve that goal.

5.6. Amendments to the Marine and Coastal Access Act (2009)

Schedule 9 of the 2019-21 Bill inserts a new section 134A into the **Marine and Coastal Access Act (2009) (MCAA)**. This section confers powers on the Welsh Ministers to make Orders relating to the exploitation of sea fisheries resources in Wales for the purposes of conserving:

- marine flora or fauna, or
- marine habitats or types of marine habitat.

A second section (section 134B) is also inserted into the MCAA, through **schedule 9** of the 2019-21 Bill, which confers a power on the Welsh Ministers to make Orders relating to the Welsh offshore region, i.e. the 12 to 200 nautical miles area or Welsh zone. Such an Order would have to be made for the purposes of conserving

marine flora or fauna, or marine habitats in Wales or features of geological or geomorphological interest.

These provisions expand the existing Order-making powers under section 134 of the MCAA. In particular, these new provisions would enable an Order to be brought forward for this purpose for **any area of Welsh waters**. Section 134 of the MCAA previously only related to Marine Conservation Zones (MCZs), of which there is **one**.

An Order made by the Welsh Ministers under section 134 would not require a statutory instrument for it to be made (see section 316(4)(a) of the MCAA). This means that **the Senedd would not automatically scrutinise any Order made under the existing or broadened powers.**

Schedule 9 of the 2019-21 Bill also inserts section 134C into the MCAA, which specifies which provisions the Welsh Ministers may include in Orders under these powers. 134C(3)(b) provides for “provision enabling conditions to be attached to a permit”. **The Bill does not specify what these conditions should be, nor does the Bill require the Welsh Ministers to consult on such conditions.** There is also no requirement for the conditions to be specified within the Orders.

In evidence to the CCERA Committee on 11 March 2020, the WFA welcomed the amendments to section 134 of the MCAA. It said “we believe that power will enable us to introduce flexible, adaptive fisheries management”.

On 16 March 2020, the Minister told the LJC Committee that, in relation to **schedule 9** part 2:

... it's a new power and it does give us the powers to make Orders rather than statutory instruments. I am committed to being very open and transparent around this. It will enable measures to be brought forward for Wales and the Welsh zone. We won't be constrained to just marine conservation zones as now. Again, it's a very important part of the toolkit that we've got to protect our marine environment and manage our fisheries effectively. Any Orders that I bring forward will be subject to consultation...and we've got to publish notice of any Orders made.

5.7. Access arrangements

The 2019-21 Bill includes the ‘equal access objective’. **Clause 1(7)** provides the meaning given to this objective which is to ensure that the **access of UK fishing boats to any area within British fishery limits is not affected** by the location of the fishing boat's home port, or any other connection of the fishing boat, or any of its owners, to any place in the UK.

The 2019-21 Bill **does not distinguish between those British-registered vessels which have British owners and those which have owners who are not based in Britain**¹. Professor Barnes told the CCERA Committee that:

I think one of the things that the Bill doesn't deal with ... is the question of UK-registered vessels that are effectively foreign-owned at the moment. So, you've got the Anglo, Spanish, Dutch fleets, and they will continue to be treated as UK-registered fishing boats, and they will continue to have access to quotas at the moment. The Bill hasn't addressed that, although I guess there is scope in the future to look at the registration requirements, and strengthen the economic link.

The Bill also includes in **clause 1** a 'national benefit objective' which is to ensure that the activities of UK fishing boats bring social or economic benefits to the UK or a part of the UK.

5.7.a Licensing of other UK vessels in Welsh waters

During consideration of the 2017-19 Bill LCM, the CCERA Committee sought information about how the Welsh Government intends to use licensing conditions for UK vessels to ensure they adhere to environmental standards in the Welsh zone (conclusion 14) . The Minister's responded:

We [Welsh Ministers] **do not** have the means to license other UK vessels in our waters as they will be licensed by their respective administrations (although their actions can be controlled, as necessary, via subordinate legislation specific to the activity that needs to be controlled).

Schedule 3 of the 2019-21 Bill includes specific provisions in relation to applying conditions to licences. The EM explains (emphasis added):

Paragraphs 4(1) and (2) give a sea fish licensing authority the power to request **another** sea fishing licensing authority to exercise its licensing functions in such a way that any licences or licence conditions it grants are **made subject to the conditions imposed by the requesting sea fish licensing authority**, where that authority has imposed limits or conditions in respect of a particular area. The purpose of this provision is that one sea fish licensing authority can ask another authority **not to undermine its licensing decisions** in respect of an area of water where boats licensed by different authorities may fish.

Sub-paragraph (3) states that the requested authority must comply with the request unless it considers it unreasonable to do so.

¹ For these purposes, British fishing boats referred to in the Bill include those registered under the law of Jersey, Guernsey or the Isle of Man. Vessels from Northern Ireland are also included in the definition of British fishing boats, by virtue of the UK registration system under the Merchant Shipping Act 1995.

5.7.b Exceptions to licensing requirements and dispute resolution mechanisms

In its 2017-19 Bill LCM report, the CCERA Committee asked the Welsh Government under which circumstances it would envisage the Secretary of State using powers within the Bill to make exceptional access allowances. Specifically, to change the exceptions to the prohibition of British or foreign vessels to fish in British waters without a licence.

The Committee called for a dispute resolution mechanism to be included in the Fisheries Management Framework Agreement as a minimum. The Minister accepted this conclusion and stated:

...the exercise of this regulation making power requires the consent of the Welsh Ministers. I can confirm the Fisheries MoU will set out ways of working around these powers and a robust Dispute Resolution Mechanism is also being established. The Welsh Government is working with UK Governments to agree this necessary detail.

In its 2017-19 LCM report, the CLA Committee called for a legislative provision for a dispute resolution mechanism within the Bill. However, the Minister rejected the need for a **legislative** mechanism.

The drafting of the provision relating to access to British fisheries by foreign fishing boats (**clause 12**) remains the same in the 2019-21 Bill compared with the 2017-19 Bill. **Clauses 14 and 16** (previously 9 and 11) still include the powers for the Secretary of State described above.

5.8. Quota allocation for shared stocks

The majority of fish stocks in British waters which are fished via quota are also present in the waters of other countries and therefore require shared management. Under the CFP, the European Commission prepares proposals for catch limits (Total Allowable Catches (TACs) or fishing opportunities). For most stocks, these are negotiated annually by Member States and also agreed with non-EU countries where the stocks are also shared with them. TACs are shared between EU countries in the form of national quotas. For each stock, a different allocation percentage is applied for sharing the quotas amongst countries. **This fixed percentage is known as the relative stability key and is largely based on historic fishing practices.**

The UK Government has indicated that it hopes to get a greater share of quota going forward, by applying a different approach to determining percentage shares,

known as zonal attachment. This approach would consider the extent to which a stock resides in a country's Exclusive Economic Zone (EEZ). The UK Government's [document](#) which sets out its approach to the UK's future relationship with the EU states:

The UK will no longer accept the 'relative stability' mechanism for sharing fishing quotas, which is outdated, based on historical fishing activity from the 1970s. This means that future fishing opportunities should be based on the principle of zonal attachment, which better reflects where the fish live, and is the basis for the EU's fisheries agreement with Norway.

In evidence to the CCERA Committee, both Dr Stewart and NEF raised concerns about whether the UK and EU may take different approaches to determining how quota of shared stocks should be split. If the UK switches to a new approach of zonal attachment and increases its catches without any decrease in catches by the EU, Dr Stewart wrote that "then overfishing will undoubtedly occur, with all nations eventually losing out".

NEF said:

there is very little in the Fisheries Bill on this [shared stocks], and it will be, in my mind, the greatest sustainability concern going forward if the EU keep up their amount of fishing pressure—they don't want to reduce—and the UK wants to gain this sea of opportunities.

The MCS, RSPB Cymru and Client Earth also called for the Bill to include "a commitment to ensure stocks shared with other countries are managed sustainably".

5.9. Distribution of quota across the UK

There is a [Concordat](#) on quota distribution between the four UK administrations. A [report](#) from the [Wales Centre for Public Policy](#) explains that:

The Concordat involves an agreement to allocate amounts of quota to each administration, but these 'shares' are not a permanent split. Allocation for vessels with Fixed Quota Allocations (FQAs) are calculated each year for the fishing year ahead. Each UK administration then allocates this quota among their fishing industry: Producer Organisations (POs), the Under 10m pool, and non-sector vessels. In the case of POs, once allocated, this quota is under PO control for the purposes of use, leasing and swaps. FQAs do not provide any right to a share of UK quota, but rather a general expectation of receiving a share of UK annual quotas

The report goes on to state that POs:

... which are predominantly about fish marketing, became quota brokers. Larger vessels were able to join POs and, based on their track record, were able to take their share of the quota pool with them. The non-sector (larger vessels not in producer organisations) and the under 10m vessels (that are not able to travel far and are very weather dependent) were left with whatever remained in the quota pool. As increasing numbers of non-sector vessels joined producer organisations, fewer and fewer amounts of quota were left for the under 10m vessels. Under 10m vessels were not required to log their catch, they had no track record. The sampling methods that were used to estimate the under 10m share have been heavily criticised as disadvantaging the under 10m fleet...

The result of this is described in the report:

Given the small size of the Welsh industry, the dominance of under 10m vessels left out of the FQAs, and the importance of shellfish and non-quota species such as bass, Wales has been disadvantaged versus Scotland and England.

Having received similar evidence, the CCERA Committee concluded in its 2017-19 LCM report that the 2017-19 UK Bill constituted 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.

The Minister accepted the latter conclusion 'in principle', stating (emphasis added):

I accept the need to rebalance the fundamental unfairness in the allocation of quota and I will push for this. However, the **UK Fisheries Bill is not the appropriate place to redress this matter.**

Quota management is undertaken through administrative mechanisms under the broad legislative framework set out in the Common Fisheries Policy. **We do not require legislative provisions to be able to rebalance quota.**

The CCERA Committee received further evidence on intra-UK quota allocation during its consideration of the 2019-21 Bill. In written evidence, Professor Barnes wrote that:

... it is notable that some degree of continuity of quota allocation is expected, with the Fisheries **White Paper** indicating that there would be no changes to FQAs [Fixed Quota Allocations], other than to account for new fishing opportunities post Brexit. This reflects the desire to avoid disrupting expectations, destabilizing fishing practices and respecting investments (eg new boats/gear) made in fishing on the basis of those expectations.

Dr Stewart's written evidence outlined that:

Although the UK government wants to use zonal attachment to allocate fishing opportunities between the UK and EU, the Bill doesn't mention using this approach when determining agreements between the devolved nations (instead appearing to stick with the 2012 Concordat). Small-scale vessels 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.

In evidence to the CCERA Committee, the WFA said “we don't know at the moment is how the cake is going to be divided up, in the UK particularly”.

Professor Barnes also commented in relation to intra-UK quota allocation that:

... I would like to have seen more in the Bill dealing with the principles of allocation and how that's taken forward, but I suspect, in practice, it's a very politicised issue and there would be a reluctance to actually set out in law how that has to happen ...

The NEF agreed and said “if you're a Welsh fisher wanting to get access to more quota species, what's in this for you? Nothing, at the moment. That's fact”.

5.10. Distribution of fishing opportunities according to criteria

The CCERA Committee previously recommended (in its report on the 2017-19 Bill LCM) a change to the distribution of existing and new quota, moving away from an emphasis on historical catch to a **greater focus on environmental, social and economic criteria**. The Committee also recommended that the Fisheries Concordat should be reviewed to reflect this.

In relation to a change in distribution of quota, the Minister accepted the Committee's conclusion 'in principle' and highlighted that:

The Welsh Government is already in discussion with the UK Government and the other devolved administrations on a number of matters where we will be looking for change.

However, the Minister did not comment on a review of the Fisheries Concordat.

In relation to the distribution of **new** quota, the Minister said:

I agree that any new quota should be allocated in accordance with the Well-being of Future Generations (Wales) Act 2015. I am committed

to readdressing the imbalance in Wales' quota share and discussions have already begun with the UK Government and other devolved administrations.

It should be noted that unlike the original drafting of the 2017-19 Bill, the 2019-21 Bill applies Article 17 of the **CFP regulations** to the Welsh Ministers (Article 17 makes provision about criteria to be applied when deciding how fishing opportunities are to be distributed for use by individual fishing boats). Nonetheless, stakeholders told the CCERA Committee during its inquiries into LCMs on both versions of the Bill that Article 17 did not go far enough as it only requires allocation to be on the basis of transparent and objective criteria. There is no subsequent requirement to use environmental, social and economic criteria. In evidence to the CCERA Committee on 11 March 2020, Greener UK said:

... we have seen that they're going to pull across article 17, which already exists within the common fisheries policy. One of the problems there is that that hasn't ever actually been applied in a way that is beneficial for environmental objectives or for social objectives as well. There's been a small redistribution of quota to the small-scale sector around the UK, but what we really want to see is a fairer approach to the distribution of fishing opportunities, and especially as Wales has a relatively small-scale sector.

The NEF raised similar concerns and hoped this would be addressed in a Welsh Fisheries Bill.

5.11. Fishing limits (Maximum Sustainable Yield)

As with the 2017-19 Fisheries Bill, the 2019-21 Bill does not include a duty to set fishing levels in order to achieve sustainable levels (for example, at or below the **Maximum Sustainable Yield (MSY)** exploitation rate). The 2019-21 Bill broadly mirrors the first paragraph of **Article 2(2)** of the CFP (emphasis added):

The CFP **shall** apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield.

A similar provision to this is included in the precautionary objective of the 2019-21 Bill. However, the provision in the 2019-21 Bill is an objective rather than a duty:

The 'precautionary objective' is that—

- (a) the precautionary approach to fisheries management is applied, and
- (b) exploitation of marine stocks restores and maintains populations of harvested species above biomass levels capable of producing maximum sustainable yield.

There is **no duty in the 2019-21 Bill to achieve the MSY exploitation rate**. In contrast, a duty is included in the second paragraph of Article 2(2) of the CFP (emphasis added):

In order to reach the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield, the maximum sustainable yield exploitation rate **shall** be achieved by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.

As a signatory to the **United Nations Law of the Sea Convention (UNCLOS)** (PDF 958 KB), the UK must continue to comply with the Convention's requirements on MSY. For example, Article 61 (3) states:

Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether sub-regional, regional or global.

5.11.a Stakeholder views on fishing limits and MSY

In written evidence, Professor Richard Barnes wrote that the 2019-21 Bill:

... provides a weaker commitment to the MSY than Art 2 of the CFP. MSY is a requirement under UNCLOS, although is qualified by economic, developmental and environment factors (Art 61(3)). Under the UK Fisheries Bill, MSY remains a policy objective. There is no target date for policy measures to be adopted that will achieve the MSY.

Similarly, the MCS, RSPB Cymru and Client Earth wrote:

... as with the previous version, the new Fisheries Bill replaces the legal commitment in the Common Fisheries Policy (CFP) to set fishing limits in line with sustainable levels with a simple, aspirational objective to achieve a healthy biomass for stocks. This is a significant omission. This objective is not legally binding, is not subject to any deadline and is dealt with by way of a policy statement that can be disregarded in a wide range of circumstances... This represents a real regression in environmental standards.

The NEF contrasted the 2019-21 Bill with “world-leading” legislation in the US where, in relation to setting fishing limits (such as MSY) “fishing authorities cannot set fishing quotas above scientific advice; it’s just against the law. So, we have all of this discussion about balancing socio-economic and environmental concerns; they just can’t”.

Client Earth also told the CCERA Committee that the need for a level-playing field in negotiations with countries not bound by the MSY exploitation rate duty in Article 2(2) of the CFP has been used to justify the absence of an equivalent duty in the 2019-21 Fisheries Bill. This appears to be the rationale provided by the Minister in her **letter to the Committee** on 1 May 2020. It was the view of Client Earth, Greener UK and RSPB Cymru that **Article 33 of the CFP (which remains in the UK CFP regulations)** should alleviate such concerns. Article 33(1) states (emphasis added):

Where stocks of common interest are also exploited by third countries, the Union shall engage with those third countries with a view to ensuring that those stocks are managed in a sustainable manner that is consistent with this Regulation, and in particular with the objective laid down in Article 2(2). **Where no formal agreement is reached**, the Union shall make every effort to reach common arrangements for fishing of such stocks with a view to making the sustainable management possible, in particular, concerning the objective in Article 2(2), thereby promoting a level-playing field for Union operators.

5.12. Enforcement of fisheries regulations

In evidence to the CCERA Committee, several stakeholders said they wanted to see provisions in the 2019-21 Bill to ensure better enforcement of fisheries management regulations. For example, the MCS, RSPB Cymru and Client Earth called for “a commitment to roll out CCTV cameras on all vessels fishing in UK waters to record what is being caught, ensuring full and verifiable documentation of catches and robust monitoring and enforcement”.

5.13. Trade

Another area where witnesses to the CCERA Committee expressed disappointment in the 2019-21 Bill was the lack of provisions in relation to trade. Bangor Mussel Producers Ltd wrote that unlike the CFP, 2019-21 Bill **does not include provisions on the common market**. It highlighted its concerns around future trade:

Wales exports the vast majority of its seafood, and the vast majority of this is exported live to the EU – where its value and provenance is well regarded. The UK Govt’s approach toward the future trading relationship with the EU threatens to totally undermine this connection. It is quite simply a disaster for the Welsh seafood sector.

It went on to state that increasing domestic consumption is not a plausible alternative. The WFA also highlighted the issue of trade post-Brexit. It said:

... we need to make sure that we stabilise and make sure that our industry is able to have as frictionless trade as possible, accepting that non-tariff barriers would be a huge concern. It would be very devastating; they would already push up the cost of the product, and then getting the product to market and things like this.

When asked by the LJC Committee about fisheries trade negotiations, the Minister said:

... the fisheries Bill will have no part in future trade relationships ... I think we're still awaiting formal confirmation of the role that we'll play in the live free trade agreements discussions. I think this is something we're going to have to watch very closely, but I think it's fair to say we've got concerns.

5.14. Aquaculture

In written evidence to the CCERA Committee, Bangor Mussel Producers Ltd raised concerns about the lack of recognition within the 2019-21 Bill of the differences between fishing and aquaculture. It was also concerned that aquaculture activity cannot be 'managed' in the same way as fisheries are 'managed'. It wrote:

Aquaculture, like Agriculture, requires stability and requires a well-established property right. The permitting of Aquaculture – be that shellfish or Fin fish in the UK going forward needs to recognise the risks associated with the activity and provide a framework that effectively interrogates these during the permitting process. And whilst things do change and new evidence can come along (that can provide a stronger basis to describe the legitimacy of the activity as well as identify a negative) this needs to be conveyed and sectioned within an appropriate framework.

6. Further information

- [Fisheries Bill 2019-21](#);
- [Fisheries Bill 2017-19](#);
- The Senedd's webpages on [consideration of Legislative Consent](#) for the 2019-21 Bill;
- The Senedd's webpages on [consideration of Legislative Consent](#) for the 2017-19 Bill;
- The CCERA Committee's [inquiry into the Impact of Brexit on fisheries in Wales](#)
- The House of Lords library's [2019-21 Fisheries Bill briefing for Lords Stages](#);
- The Senedd Research's [UK Fisheries Bill 2017-19: Bill Summary](#); and
- The Welsh Government's [marine and fisheries landing page](#).