



Dee District Salmon Fishery Board

24th February 2012

Aquaculture and Fisheries Consultation
1B-North
Victoria Quay
Edinburgh
EH6 6QQ

Dear Sir / Madam,

Aquaculture and Fisheries Consultation

The Dee District Salmon Fishery Board (Dee DSFB) welcomes the opportunity to comment upon the Aquaculture and Fisheries Consultation. Detailed specific comments are limited to Sections 4, 6, and 7. For Sections 1 to 3 and 5 the Dee DSFB would endorse the views expressed by the Association of Salmon Fishery Boards (ASFB).

Overall the Dee DSFB welcomes many of the proposals presented throughout the document that relate to freshwater fisheries management as we are confident that the Dee and other DSFBs can demonstrate accountability and transparency via the recently updated ASFB Code of Good Practice. We are comfortable with the availability of additional powers to Scottish Ministers, but we believe that these should provide a safety net, not a parallel management framework.

Section 4: Salmon and freshwater fisheries management

General Comments: The current DSFB organisational structure provides highly effective management of our iconic Atlantic salmon and sea trout fisheries. Its strengths lie in its local self-financing structure, and it is a structure which is highly respected and envied. It is capable of reacting swiftly to changing circumstances, and yet no changes to individual's rights can be made without the sanction of the Minister. Scotland benefits hugely from the management of fisheries by DSFBs. The Dee DSFB is funded by its local proprietors to a value exceeding £370,000 per annum and when this is scaled up nationally for all DSFBs over £3.5 million is generated for catchment management. In addition, Board Members give their time on an entirely voluntary basis.

The optimistic view painted in paragraph 74 demonstrates that the present management structure is effective. However, it would be wrong to assume that all runs of salmon in all rivers are at their optimum level. Whilst 2010 did indeed see the highest total rod and line catch on record (since 1952) it is important, when drawing comparisons with the past, that we compare like with like. In the 1960s, half a million fish or more were caught annually in Scottish coastal and estuary nets, before salmon were able to access their natal rivers. There was also a catch of over 3000 tonnes at Greenland and the Faroes. The number of salmon returning to Scottish waters is clearly hugely reduced from sixty years ago. Despite strong grilse and summer salmon runs in many parts of Scotland in 2010, it was another poor year for spring salmon nationally. Conversely, in 2011, whilst the spring runs recovered to a degree, the grilse runs were late and weak. Fishery managers manage the resource based on individual stock components (such as spring salmon) rather than on total numbers of fish returning to the river. A healthy run of fish, returning throughout the

entire season, contributes to a long angling season which secures employment and is important to the local angling-related economy.

Paragraph 75, sets out the retention of fish in the fixed engine (15,577), net and coble (11,738), and rod (32,712) fisheries in 2010, but does not comment on the sustainability of these catches, or indeed the contribution to fisheries management arising from these catches. It should be noted that net fisheries accounted for over 45% of the retained catch (19.8% of the total catch), but only contributed 1.3% of the total funding raised by DSFBs for fishery management. This situation is clearly inequitable and should be addressed by the forthcoming legislation.

We welcome many of the proposals laid out in this section as we are confident that DSFBs can demonstrate accountability and transparency via the recently updated ASFB Code of Good Practice. We are comfortable with the availability of additional powers to Scottish Ministers, but we believe that these should provide a safety net, *not* a parallel management framework. We would note that should Scottish Ministers elect to take such powers, there are associated financial implications, a point which is particularly relevant given the reduction in public sector budgets highlighted in section 6. We would also note that the consultation document does not clarify what alternative arrangements would be put in place should Scottish Ministers take these powers. One of the great advantages of the current structure of fisheries management in Scotland is that the resource is managed at a local catchment scale rather than centrally, and funding raised locally is spent locally. We strongly believe that this principle of local catchment management remains the foundation of effective fisheries management in Scotland.

Q23. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently?

Dee DSFB agrees that all DSFBs, as with all bodies, should act fairly and transparently – indeed the Code of Good Practice, which has recently been updated, is designed to ensure just that. Whilst we would not be uncomfortable with the obligation to act fairly and transparently, we are not convinced that a specific duty is the best way to achieve this aim. Indeed, we do not understand how such a duty would work in practice or how DSFBs would demonstrate that they were discharging such a duty.

DSFBs have no legal powers to make statutory regulations without application to Scottish Ministers (e.g. conservation measures, reduction of exploitation (rod and/or net fisheries), methods of fishing etc.). Therefore any such regulations are already subject to due process, consultation and Ministerial approval. It is worth noting, that it is almost inevitable that any such decisions will be perceived as unfair by some stakeholders. Indeed, this difficulty is highlighted by the fact that the consultation includes a section entitled ‘dispute resolution’. Despite the requirement for Ministerial Approval, if a stakeholder does not believe that a DSFB has acted fairly, then any decision is already subject to judicial review.

We believe the best means of achieving fairness and transparency is adherence to the Code of Good Practice (see below). The Dee DSFB is of the opinion that the adherence to this code should be through a process of external audit.

Q24. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries?

ASFB finalised an updated version of the Code of Good Practice for Boards in November 2011 and we strongly agree that there should be such a code. The code is designed to ensure a rigorous and consistent approach, but one which allows solutions to be tailored to local conditions and catchment management.

We note that it is not clear which code is being referred to in the consultation as we are also aware that the production of a Code of Best Practice for Fisheries Management is also under development. The consultation document also goes further and suggests what the code could include. We address these issues point by point below, but we would make the general point that DSFBs across Scotland vary greatly in terms of size and resources. With that in mind, a ‘one size fits all’ approach is unlikely to be appropriate across the network.

- *Hold annual open meetings i.e. in addition to the statutory requirement on Boards to call an annual meeting of proprietors.*

The Dee DSFB already holds one open meeting a year.

- *Hold Board meetings in public, unless there is a good reason not to*
The 2003 Act requires DSFBs to call an annual meeting, but does not require DSFBs to hold any further meetings. However, the Dee DSFB holds a minimum of four meetings a year and the cost of moving these meetings to a venue with sufficient capacity for members of the public would involve a significant expense and may curtail a full discussion of the issues at hand. Dee DSFB believe that significant transparency in Board decision making could be achieved by publishing summary reports and/or minutes of meetings and where issues arise from those reports, by inviting evidence/submissions from members of the public, should the latter prove necessary.
- *Publish summary reports and/or minutes of meetings*
This is included as a recommendation in the latest version of the Code of Good Practice (November 2011).
- *Invite evidence from members of the public on matters of public concern*
The Dee DSFB regularly consults stakeholders on policy and would have no difficulty with this in principle. However, it is not clear from the consultation what aspects DSFBs are being asked to take evidence on. The 2003 Act already ensures that salmon anglers and netting interests (where they exist) are represented on DSFBs, in addition to proprietors. In addition the Dee DSFB also invite other bodies, such as SEPA, SNH, Cairngorms National Park Authority and Aberdeenshire Council, onto the Board as full members. The present system therefore allows DSFBs to consider a wide range of views in discharging their functions.
- *Consult stakeholders on a wide range of issues*
Again, the Dee DSFB would have no difficulty with this in principle. However, it is not clear from the consultation what aspects DSFBs are being asked to consult on. DSFBs cannot make legally binding decisions without the approval of Scottish Ministers, a procedure with an inbuilt consultation process. If the consultation document is referring to pre-application consultation, we would be supportive of this in principle, but we would again highlight that this may prove disproportionately expensive for some of the smaller DSFBs.

For non-legally binding agreements, such as the Dee Conservation Code, the Dee DSFB has a system of consulting a wide range of stakeholders and their representatives, and taking their views into account when formulating policy.

- *Make their Annual report and audited accounts widely available e.g. by publishing on web sites and local distribution*
This is included as a recommendation in the latest version of the Code of Good Practice (November 2011).

Q25. If yes, do you think such a Code of Good Practice should be statutory or non-statutory?

We believe that, similar to the Code of Good Practice for Scottish Finfish Aquaculture, the code should be non-statutory in the first instance. However, we would be content if there was a power for Scottish Ministers to adopt the code should they wish to do so in future.

Q26. Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout?

Yes, such powers should be taken and implemented as soon as possible. A carcass tagging scheme has been in operation in England and Wales since January 2009. Any salmon and sea trout caught by means other than rod and line (i.e. by licensed net or trap) must be tagged with a uniquely numbered Environment Agency carcass tag. This must be attached immediately after capture and remain attached until the fish is processed. Details of the fish and the tag reference numbers must be recorded in an

annual log-book (supplied) and returned to the Environment Agency at the end of the year. Further information on the EA scheme is included in the 2009 review of implementation of the Salmon and sea trout carcass tagging and ban on sale byelaws¹. It is worth noting that during the 2009 season, 36,500 salmon and sea trout were caught, tagged and recorded, with 30,668 of these recorded in the North East of England. The scheme is reported as having been a success: *“Feedback from the netmen has been positive – they can sell fish to a premium market where the buyer can be confident about the source of the fish – the tags are also seen as a sign of quality.”* Similar schemes have been in operation in the Republic of Ireland since 2001 and Northern Ireland since 2002. Carcass tagging has been considered both as a quality control measure and as a means to minimise the possibility of illegally caught fish reaching markets or dealers. In combination with the ban on sale of rod caught fish across the UK, any untagged fish would be made unmarketable and clearly identifiable as illegally taken.

It is of note that the EA has identified a loophole in their system that, in the absence of a mandatory carcass tagging system in Scotland and in the Tweed District, illegally caught English fish are reaching the market masquerading as Scottish produce. There are also a number of potential routes for illegally caught Scottish fish to reach the market. Marine Scotland Compliance² has noticed a recent upturn in illegal gill netting in Scottish inshore waters. Between June 2009 and August 2010, 17 illegal gillnets were seized by FPV Minna (average length 47m; range 11-87m). There is a continuing, significant problem of wildlife crime in Scotland - the illegal taking of salmon within rivers and estuaries. During 2010, bailiffs employed by 28 of the 41 DSFB's across Scotland (including the River Tweed Commission) seized a further 166 nets of which 49 were recovered in-river and 117 were recovered in estuaries/coastal waters. Declared net catches for 2007-2009 (January-April) were 86, 80 and 145 respectively. However it is difficult to reconcile these figures with the amount of wild Scottish salmon reaching the market prior to the end of April. For example, the number of boxes of “Scotch Wild” salmon (containing on average five, 10lb salmon per box) arriving at Billingsgate Market in London³ suggests that somewhere between 300 to over 1000 more Scottish salmon are sold than are declared according to the Statistical Bulletin. These figures are estimates as no records are kept as to how many of the fish boxes are full to capacity. However, given that only 30-40% of Scottish spring salmon are estimated to be sold through Billingsgate, it is clear that illegally caught salmon reaching the market is a significant problem. The reduction of such illegal activity, by significantly reducing the potential market for illegally caught fish, would have a significant conservation benefit for wild salmonids.

There are also potential benefits to the netting industry. In the light of the application to the EU for Protected Geographical Indication (PGI) status for ‘Scottish Wild Salmon’ it is in the interests of both the netting industry and the Scottish Government to ensure that any Scottish wild salmon reaching the market is traceable and of the highest quality. The quality of illegally caught fish, which would be unlikely to be stored appropriately, could not reach the standards required for PGI status. ASFB are aware that there are a number of distinct carcass-tagging schemes, operated by individual netting operations. Whilst these are non-numbered schemes, operated purely for marketing purposes, the fact that such schemes are in operation demonstrates that these schemes are of value to the netmen. However, unless such schemes are mandatory across Scotland and use uniquely numbered (and recorded) tags, the problems outlined above cannot be addressed.

In 2011, DSFBs applied for a Salmon Conservation Order to introduce a statutory system of carcass tagging for all net caught fish, in line with the rest of the UK. Whilst we believe that the power to introduce such a system already exists under the 2003 Act we are supportive of a system being introduced in Scotland at the earliest possible opportunity.

It is not clear whether the consultation question refers to net caught fish, rod caught fish, or all fish caught in Scotland. However, carcass tagging of rod caught fish may be a useful tool to aid DSFBs in

¹ Environment Agency (2010). Salmon and sea trout carcass tagging and ban on sale byelaws: Review of 2009 implementation.

² Alistair Beveridge talking at the 2011ASFB Bailiff's Seminar in Stornoway

³ Official statistics supplied by the Chief Inspector of The Fishmongers' Company

ensuring compliance with their conservation policies. We would therefore suggest that DSFBs should be given a power to introduce a carcass tagging system within their own districts. However, we would note that the existing ban on the sale of rod caught fish across the UK, means that, even without carcass tagging of rod-caught fish, any untagged fish would be unmarketable.

Finally, as mentioned above it is currently illegal to sell rod caught fish. However, it is not illegal to purchase rod caught fish. Once we have a statutory system of carcass tagging in place, we believe that it should be illegal to both sell *and* purchase an untagged fish.

Q27. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis?

This was a recommendation of the mixed stock fisheries working group and we agree that the Scottish Government should have the power to ensure that fish genetic samples can be produced where necessary from any salmon fishery. Genetic analysis is a key tool in modern fisheries management, and without such information it is not possible for DSFBs to know the impact of the catch on individual catchments or to apply targeted conservation measures. Access to this information will enable rational management decisions on net fisheries to be made. DSFBs would hope to be able to take such samples with the agreement of proprietors, but agreement from all fisheries within a district is not always possible. The DSFB would advocate that such a power should also be available to DSFBs. We believe that genetic samples can be taken without killing the fish in question. However, if such sampling, undertaken on behalf of Scottish Ministers, would be likely to involve killing fish we consider that the DSFB should be fully consulted prior to sampling taking place.

Q28. Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders?

The DSFB believes that such powers should only be used where there is no DSFB in place. Where a DSFB is in place, and is complying with good practice as set out in the Code of Good Practice, then changes to Salmon District Annual Close Time Orders should be initiated only on the application of the DSFB.

Q29. Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand?

The consultation document does not set out the basis or need for combined salmon conservation powers and therefore we are unclear as to what advantage there is in combining these powers. DSFBs across Scotland have applied for both close time orders and conservation measures, sometimes in combination, and we are not aware of a particular problem with this arrangement.

Q30. Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures?

This is consistent with evidence based management and on that basis we are supportive of this in principle. However, there would need to be a degree of proportionality in placing monitoring requirements on a DSFB, due to the potential expense and/or expertise required to carry out such monitoring. A partnership approach, between DSFBs, Fishery Trusts and MSS would appear to be a sensible approach here (please see our comments on the National Strategy for Data Collection below).

Q31. Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures?

Again, we are unclear on the need for a statutory mediation/dispute resolution process. Fisheries management in Scotland largely progresses on a consensual basis. Where it is not possible to reach agreement on a voluntary solution, the legislation allows for DSFBs to apply to Scottish Ministers for e.g. conservation measures, reduction of exploitation (rod and/or net fisheries), methods of fishing etc. The

ultimate decision rests with the minister, who will only act after consultation. Assuming that DSFBs are acting in accordance with the Code of Good Practice, and that decisions are therefore justifiable, we believe that it is entirely appropriate for Scottish Ministers ultimately to make such decisions. With regard specifically to compensation arrangements, mediation may prove useful in some instances, but we are not convinced for the need for statutory provisions in this regard.

Improved Information on Fish and Fisheries

The Dee DSFB agrees that there is a need for improved information on fish and fisheries. Between the DSFBs, Fisheries Trusts and Marine Scotland Science (MSS) there is a significant resource which we feel could be deployed in a more integrated and efficient manner to ensure data collection (whether from catch returns, electrofishing or counters) is consistent and useable. For instance, catch statistics are currently collected by MSS, by DSFBs and by the District Assessor. We would therefore propose a national strategy for the collection of fish data to provide the evidence required for appropriate fisheries management. Such a strategy could be drawn together using the existing structures of the Strategic Framework for Scottish Freshwater Fisheries. For a DSFB to operate effectively, using an evidence-based system of management, it must have access to robust information (e.g. adult returns, juvenile numbers & factors affecting them). A national strategy for the collection of data would identify the roles of MSS, DSFBs, Trusts and individual proprietors in providing this information, and this could be defined through the relevant code of practice or statute. It is also important that this information is used to inform stakeholders and members of the public. Such a strategy would need to be sensitive to the variable resources available to DSFBs/Fishery Trusts across Scotland.

Q32. Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries?

We believe that there may be value in collecting effort data, if it could be clearly demonstrated that such data will significantly add to the understanding of fish stocks. However the Dee DSFB is of the opinion that there are a large number of factors that can also influence catch and effort. We are not clear how these factors could be accounted for in what is likely to be a relatively basic measure of effort.

We believe it would be useful for more information and data to be collected from net fisheries. We believe that netting effort should be more clearly defined (not simply the monthly mean), all instances when leaders are not removed during weekly close times should be reported (see our response to Section 7 below), and number of fish taken from specific nets should be reported (net locations often range from close to river mouths, to several km from river mouths - such a reporting requirement would give an indication of the relative impact of a fishery on specific rivers).

We would support this issue being examined in detail in drawing up a national strategy for the collection of fish data as proposed above. We are aware that MSS are currently undertaking a pilot study on specific indexed rivers to assess the potential value of such data. On that basis, we would be content for Scottish Ministers to take a power to collect effort data, to be utilised on the successful conclusion of the MSS pilot study. We would also highlight that the existing catch statistics database contains a great deal of valuable information and the national strategy could also examine the most effective means of utilising such information.

Q33. What additional information on the fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances?

Please see our comments above on a national strategy for the collection of fish data.

Q34. Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout and the fisheries in their district?

Paragraph 104 of the consultation document appears to suggest that this question might be limited to licensing functions on the introductions of salmonids to freshwater. However, we are working under the assumption that this question involves all aspects of the salmon and sea trout fisheries in a district. A number of DSFBs already collect and publish information on catches, conservation policies, monitoring, introductions and enforcement within their districts. We believe that the Code of Best Practice is the best way to ensure that this information is provided in a consistent manner for all DSFBs. The operation of the Code in this matter could be linked to the proposed national strategy for the collection of fish data.

It is not clear from the consultation document, should such a power be invoked to require a DSFB to undertake additional functions above and beyond their core work, who would be expected to pay for such additional functions. It is important that any such power must be used in a proportionate way, which reflects the resources of the DSFB in question.

Q35. Do you agree that Scottish Ministers should have powers to recall, restrict or exclude the jurisdiction of Boards in relation to fish introductions, in certain circumstances?

As highlighted in the consultation document ASFB and RAFTS have developed guidance on stocking⁴. ASFB have also developed specific guidance on stocking programmes in Special Areas of Conservation which is currently with SNH for comment. Adherence to this policy is a requirement of the Code of Good Practice and therefore ASFB believe that issues relating to stocking practice should be dealt with through the Code. Where DSFBs are not fulfilling their duties such a power may be useful as a safety net.

Q36. If so, why and in what circumstances?

It is appropriate that Scottish Ministers might use such powers where DSFBs can be demonstrated as not fulfilling their duties. We note that Scottish Ministers already have jurisdiction over fish introductions in those parts of Scotland which are not covered by DSFBs. In addition, Scottish Ministers have jurisdiction over introductions of other freshwater species throughout Scotland. However, we are not aware of any evidence to suggest that the use of regulatory powers is significantly better in those areas of Scotland under the jurisdiction of Scottish Ministers. Indeed, we would argue that some of the most concerning examples of questionable practice occur in such areas. In the specific example of introductions of freshwater fish (other than salmon and sea trout) we believe that DSFBs should be consulted prior to any introductions of fish within that district.

Section 6: Paying for Progress

Q46. Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities?

Our comments here are restricted to the salmon and sea trout fisheries sector. It would have been useful if the consultation document had highlighted exactly which services/benefits are being referred to in relation to salmon and sea trout fishery management.

It would seem reasonable for charges for services/benefits and we believe that SEPA provide a good model here. For generic services such as setting up the framework of Controlled Activities Regulations, data collections standards etc. there is no charge. However, where a specific application is made, SEPA then levy a charge. In operation this appears equitable and proportionate. We would be concerned however, if any such charges were set at a level that put these services out of the reach of the smaller DSFBs.

It is also worth noting that the current CAR regime provides for the waiving of the application fee for an activity which delivers an environmental benefit. It would therefore seem logical that, where there is an

⁴ Available at: <http://www.asfb.org.uk/wp-content/uploads/2011/04/ASFB-RAFTS-Salmon-stocking-policy-paper.pdf>

application for conservation measures where there is likely to be an environmental benefit there should be no charge. In line with the SEPA model we would also expect Scottish Government to meet certain performance requirements. Specifically, applications to Scottish Ministers should be dealt with, within a statutory timeframe and we would expect the Act to reflect this.

Q47. If you do not agree that there should be charging provisions, how do you envisage ongoing and new work to assist in management and development of the aquaculture and fisheries sectors should be resourced?

Again, we limit our comments to the salmon and sea trout fisheries sector. It is worth noting that Scotland gets a huge benefit from the management of fisheries by DSFBs. DSFBs are funded by fishery proprietors in the district, to a value exceeding £3.5m in 2010. Board Members give their time on an entirely voluntary basis. To replicate this management model in the public sector would be massively expensive to the public purse. In addition, DSFBs are consulted on, and expend significant time and effort in responding to, planning applications for wind farms, run of river hydro developments, marine renewable developments, fish farm developments and other developments with the potential to impact on the freshwater or marine environment. Any decisions on the level of charges, or indeed the need for charges, should be taken in the light of the considerable value already provided by DSFBs.

Q48. If no new way of resourcing such activity can be found, what activities do you suggest might be stopped to free up necessary funds?

There are a number of ways in which funds could be freed up. We have proposed above a national strategy for the collection of fish data. This could potentially help to refine the operations of MSS, thereby freeing up staff time. We also believe that a closer working relationship between DSFBs and MSS, SEPA and SNH would be valuable in this regard.

We also suggest below that the period in which DSFBs can authorise certain activities without applying to Scottish Ministers should be extended. This again would free up scarce Government resources.

Section 7: Any other issues

Section 4

- At present, the powers of DSFBs are restricted to the dates set for the traditional netting season – outwith those times, Boards need to apply to Scottish Ministers for authorisation. Whilst the definition of the salmon season based on salmon netting may have made sense historically, when salmon netting was the major part of the sector, this is no longer the case. Indeed, the vast majority of DSFBs have little or no netting interests within their districts. It seems incongruous, and a waste of scarce government resources for DSFBs to have to apply to Scottish Ministers to electro-fish or take brood stock for hatchery operations out with the netting season, when they do not have to do so within the netting season. This places an unnecessary burden on DSFBs and Scottish Government. We therefore propose that DSFBs should be given powers to undertake these activities throughout the year.
- It is an offence to fish or take salmon during the weekly close time for net fisheries (6pm Friday – 6am Monday). In the case of fixed engine salmon fisheries (bag or stake nets), this is achieved by removing the 'leader', a net positioned perpendicular to the shore which diverts fish into the salmon net. Removal of the leader prevents fish from entering the nets. It has become apparent that, in some parts of Scotland, the weekly close time is often not observed if, for example, rough sea conditions make it too dangerous to remove the leader. For example, Usan Fisheries near Montrose failed to remove the leaders on their nets on 12 out of 18 weekends in 2011 – equating to a significant increased exploitation of fish throughout the season. We are content that exceptions to the weekly close time should exist and indeed do not want to see anyone's life being put at risk. However, we are concerned at the potential for the current exception to the weekly close time to be exploited. The weekly close times were put in place for sound conservation reasons and therefore we believe that, where the close time cannot be

adhered to for reasons of health and safety, the leaders should be removed for a corresponding period at the earliest next opportunity. Implicit in this, is the need for a requirement for netsmen to report all such occurrences when leaders are not removed.

- The North Atlantic Salmon Conservation Organisation⁵ and the North Atlantic Salmon Fund have successfully negotiated reductions in salmon fisheries in their marine feeding grounds in the North Atlantic. Recently, MSFs have come under increased international scrutiny. NASCO's success in achieving tight restriction of traditional high seas MSFs near Greenland and the Faroes has led to increasing pressure on all parties to the Convention for the Conservation of Salmon in the North Atlantic Ocean to address MSFs in their home waters. As we expect Greenland and the Faroes to adhere to the current tight restrictions on their fisheries, we must keep our own house in order – it would be a disaster for Scottish salmon fisheries if these high sea fisheries were to resume.

The extent of *active* net fisheries in Scotland has declined, particularly since the 1970s when the advent of salmon farming and the availability of cheaper farmed fish to the consumer had a marked effect on the commercial viability of salmon netting for wild stocks. However, there remain a large and undefined number of inactive netting stations in Scotland, for which the netting rights still exist. The 1997 Report of the Scottish Salmon Strategy Task Force recognised that it would be inappropriate to prohibit the operation of active net fisheries, but that a mechanism should be established to prevent any increase in fishing effort, in line with our International commitments. The report therefore recommended that '*All net fisheries (both outside estuary limits and net and coble fisheries above the head of the tide) operated or genuinely let in any two years in the period 1993 to 1996, inclusive, should be registered, and only those that are so registered should be permitted to continue operating*'. The report also recommended that '*The number of traps fished at a bag-net or stake-net station, or the number of crews working a net and coble station outside estuary limits, should not be greater than those qualifying for registration*'.

Section 5

- There are a number of issues relating to gill netting of concern to salmon interests. The use of monofilament nets in Scottish waters is prohibited. However, many nets being used on the South Scottish coast are *multi-monofilament*. Despite the inclusion of the pre-fix 'multi', these nets are monofilament and are already illegal as highlighted in an English court ruling⁶. The rules regarding gill netting in England have recently changed. Previously gill netting was dealt with under s6 of the Salmon and Freshwater Fisheries Act 1975 (as amended by the Salmon Act 1986) by way of bylaws set by the Local Fisheries Committee. However, the 1975 Act was repealed by the Marine and Coastal Access Act 2009, which set up a new framework for the governance of inshore fisheries via Inshore Fishery and Conservation Authorities (IFCAs). Some IFCAs have used these powers to remake the old sea fisheries committee bye laws prohibiting gill netting within certain specified locations. Such bylaws are in terms similar to the following:

The placing and use of fixed engines for taking sea fish is prohibited in the following areas except when placed or used in accordance with the following conditions:

The headline of every fixed engine shall be at least 3m below the surface of the water at any state of the tide when set in the following areas less than 1 nm from the low water line along the coast and between the following eastward and westward boundaries.

(All references to fixed engines in the above, refer to gill nets)

Such bylaws, which are also designed to prevent gill nets being placed near river mouths, reduce the likelihood that salmon or sea trout will be intercepted by gill nets set for sea bass or mullet, as salmonids fish generally swim within 3m of the surface and close to the coast. As the law currently stands, it is an offense to take salmon, but this does not prevent salmon being intercepted and killed in

⁵ Established under the Convention for the Conservation of Salmon in the North Atlantic Ocean in October 1983

⁶ Brough v National Rivers Authority (1993)

gill nets, so long as the fish are not landed. We believe that the Aquaculture and Fisheries Bill presents an opportunity for Scottish Ministers to take a power (if such a power does not already exist under the Inshore Fisheries (Scotland) Act 1984), via the most appropriate legislative vehicle, to regulate gill netting by order, along the lines of the English bylaws suggested above. Such orders should be made by Scottish Ministers under their own volition, or on application by a DSFB.

Section 6

- The need for the equitable burden of conservation was recognised by the Mixed Stock Working Group. There is currently an imbalance in that burden between the exploiters of the resource. As previously noted, net fisheries accounted for over 45% of the retained catch, but only contributed 1.3% of the total funding raised by DSFBs for fishery management. This situation is clearly inequitable and should be addressed by the forthcoming legislation.

Other

- There is currently a population of feral beavers on Tayside which has most likely been introduced illegally. It is also possible that some of these animals may have escaped from private collections. In either case, it is important that such animals, which may impede the upstream access of migratory salmonids, are chipped, tested for disease and securely enclosed as a condition of ownership. We would seek assurance that the Wildlife and Natural Environment (Scotland) Act 2011 contains the necessary powers for Scottish Ministers to deal with these issues. If the relevant powers do not exist, we believe that the Aquaculture and Fisheries Bill may provide a legislative vehicle for changes to primary legislation in relation to this issue.

If you require clarification of any of the points raised in this consultation response then please do not hesitate to contact me.

Yours faithfully

Mark Bilsby
River Director
For and on behalf of the Dee District Salmon Fishery Board