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Date: 04 April 2012

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Dear Catriona

AQUACULTURE AND FISHERIES BILL CONSULTATION

As the Scottish Government economic and community development agency for the north and west of Scotland, Highlands and Islands Enterprise welcomes this opportunity to respond to this early consultation in advance of drafting an Aquaculture and Fisheries bill. Operating in partnership with organisations such as Scottish Enterprise and VisitScotland we are working to achieve the objectives of the Government Economic Strategy, delivering sustainable economic growth in every part of the Highlands and Islands.

We have four priorities against which we are focusing our resources over the coming years:

- Supporting businesses and social enterprises to shape and realise their growth aspirations.
- Strengthening communities and fragile areas.
- Developing key sectors, particularly distinctive regional opportunities.
- Creating the conditions for a competitive and low-carbon region.

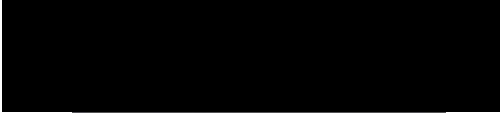
The Highlands and Islands has suffered less than other areas from the global economic downturn and its recovery has been relatively strong with unemployment rates across the region remaining below Scottish and UK levels. This may be attributed to relatively successful tourism seasons in recent years and to the export led growth of the food and drink industry, as typified by farmed salmon export growth.

The aquaculture industry is of great significance to the Highlands and Islands, providing above average wage levels to farm based staff through many remote rural and coastal communities. In addition, processing of farmed salmon supports many semi-skilled workers in larger communities across Scotland, with further valuable employment in the companies providing goods and services for the industry and in the research institutions supporting aquaculture developments here in Scotland and around the world.

With recovery of the Chilean salmon farming industry, producers of Scottish farmed salmon face an increasing competitive global marketplace. It is essential therefore that regulation of this, as any other industry, is appropriate and measured according to the real or potential threats represented by aquaculture and salmon farming in particular. On past experience Scottish aquaculture products will secure their markets on the basis of their quality and Scottish provenance. Credible and effective regulation of the Scottish industry is an essential element in sustaining the high reputation of Scottish produce.

In responding to this consultation we have restricted our comments to those sections dealing directly with the aquaculture industry since it represents a major proportion of Scotland's food and drink industry, a priority growth sector as identified in the Government Economic Strategy. We would however be pleased to discuss any aspect of this consultation with colleagues in Scottish Government.

Yours sincerely



CHARLOTTE WRIGHT
DIRECTOR
BUSINESS AND SECTOR DEVELOPMENT

Aquaculture and Fisheries Bill Consultation Document

CONSULTATION QUESTIONS

SECTION 1 - THE SUSTAINABLE DEVELOPMENT OF AQUACULTURE

Farm Management Agreements (FMAs)

1. Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement (FMA), with sanctions for failure to do so, or to adhere to the terms of the agreement? (Page 9)

Yes. There is a need for a more robust system of coordinated management which will deliver the benefits promised by the Code of Good Practice. However FMAs must not become a means by which existing operators are able to hinder the emergence of new business developments, new methodologies etc.

Appropriate Scale Management Areas (MAs)

2. Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative areas? (Page 9)

In reality this will have to be a joint exercise. Operators do not have hydrographic expertise in house and would have to access the same sources of such expertise as would Scottish Ministers

Management Measures and Dispute Resolution

3. Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements? (Page 10)

Yes. This will be necessary to resolve disagreements between existing operators and, as indicated above, essential to minimise the possibility of anti-competitive behaviour by operators within an FMA

4. How do you think such a system might best be developed?

No comment

Unused Consents

5. Do you agree we ought to review the question of unused consents?

Yes. The complexity of the situation is recognised but reflects many years of industry development and site relocations.

6. What do you consider are suitable options to promote use or relinquishment of unused consents?

It is important to understand the various motivations for businesses to retain sites/consents which they are unlikely or unable to utilise in the foreseeable future. It is unlikely that any single measure would resolve this situation. Sanctions against non productive sites would go some way to addressing this situation, as would encouraging “sub-letting” e.g. a salmon site converted and sub-let as a mussel farm site.

7. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents?

Yes. This would appear to be acceptable if only as a final solution to unused sites should the above measures prove ineffective. Many of the inactive sites would not be economically viable for salmon production and so their asset value is likely to be limited.

8. Should any such power relate to all or to particular consents (and if the latter, which)?

No comment

Collection and Publication of Sea-lice Data

9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data?

It is important to recall that the primary purpose of collecting sea lice data is to enable farm operators to optimise control of this parasite, taking account of industry standards, customer specifications and the welfare of farmed and wild salmonids. We recognise the significance of this data collected by the industry in developing strategic approaches to lice treatment and in the early detection of decreased efficacy of specific treatments. Recent moves by the industry to make public collated sea lice data we do not feel that this in itself necessarily improves lice management. Nor do we believe that the level of understanding by the general public of the impacts of lice from farmed salmon on wild salmonids - and indeed of the impacts of lice from wild salmonids on farmed salmon – is such that publication of detailed sea lice records would serve little purpose.

Surveillance, Biosecurity, Mortality and Disease Data

10. Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatment and production as set out above?

We feel that such information should be made available by aquaculture businesses on request. Routine submission of this additional information without good reason would appear to be an unnecessary burden on business.

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11. What are your views on the timing and frequency of submission of such data?

No comment

Biomass Control

12. Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them necessary and appropriate – for example to address concerns about fish health and welfare?

Yes. We accept that there may be circumstances where biomass should be reduced for reasons other than environmental impacts of the farm.

Wellboats

13. Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on wellboats?

Yes. Wellboats will be an integral feature of the salmon industry for the foreseeable future. All reasonable steps must be taken to minimise risks to fish health. The Scottish Government memorandum of understanding with the Norwegian Ministry of Fisheries may offer a basis for harmonising controls on wellboats in Scottish waters with those applied by the Norwegian authorities.

Processing Facilities

14. Do you think Scottish Ministers should be given additional powers to place controls on processing plants?

Yes – on balance we would support such powers provided costs to industry are manageable.

Seaweed Cultivation

15. Do you agree that the regulatory framework should be the same for all seaweed farms?

Yes

16. Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing?

Yes – we believe that marine licensing is the most appropriate approach to regulation of seaweed cultivation irrespective of scale or location

17. If not, what alternative arrangements would you suggest?

N/A

Commercially Damaging Species

18. Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species?

Yes. The real life example of *Mytilus trossulus* suggests that such additional powers could on occasion be important. Prompt action would probably be beneficial hence we agree the sense of providing for such powers at this time.

SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS

19. Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry?

Yes. We welcome the provisions contained with the Scottish Government's recent consultation "An integrated approach to protection of shellfish waters".

SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS

Sea-lice

20. Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken, in appropriate circumstances and potentially as part of a wider suite of protection measures?

We accept that there may on occasion be a situation in which it is deemed appropriate to vary the threshold at which remedial action is required. The unique hydrography of the site in question must form part of the consideration alongside wild and farmed fish welfare.

Containment and Escapes

21. Do you agree we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical Standard? (The technical content of the standard would be defined separately.)

Yes. In addition to helping reduce the risk of escapes from freshwater and seawater installations, a Scottish technical Standard should provide both domestic and international commercial opportunities for equipment designers and manufacturers in Scotland.

Tracing Escapes

22. Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes?

Yes. It is clear that the techniques of DNA matching are becoming ever more refined and such information will be or become invaluable for a number of purposes.