

PS/Cabinet Secretary

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FOR INFORMATION: DISCUSSIONS AMONG UK ADMINISTRATIONS ABOUT FUTURE GOVERNANCE OF SEA FISHERIES IN UK

1. The purpose of this note is to inform the Cabinet Secretary that, in line with Mr Russell's update to Cabinet of 18 December 2017, sea fisheries officials will commence 'deep dive' discussions on 16 and 17 January with counterparts from the 3 other UK countries about the governance of sea fisheries in the UK following the UK's departure from the EU. The UK Government has been referring to those discussions as being about "UK frameworks".

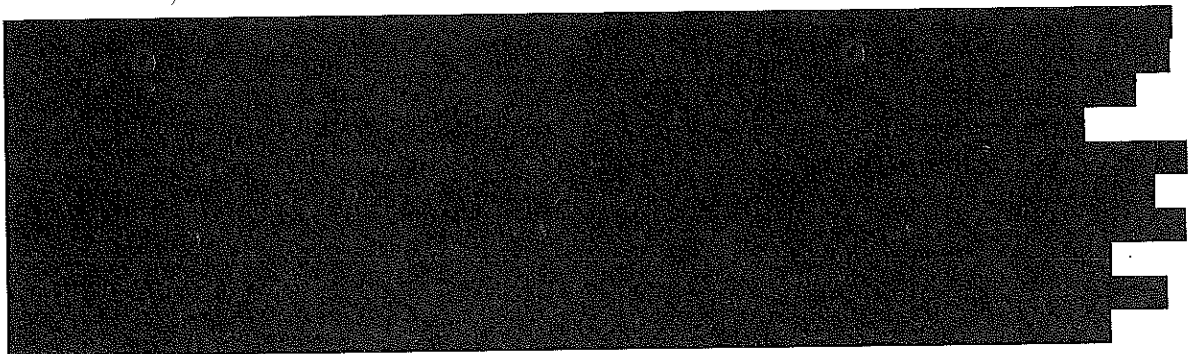
2. These discussions are to take place in line with the principles agreed by JMC (EN) on 16 October 2017. In making preparations for discussions, sea fisheries officials have liaised closely with Constitution and UK Relations Colleagues and with those in agriculture who undertook the one of the first of these so-called "deep dives".

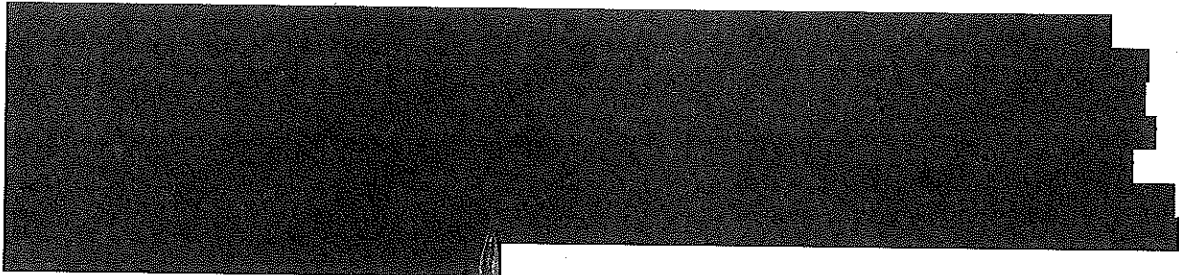
3. The focus of this first discussion will likely be on the regulation of sea fisheries including some elements of control and compliance, but not the wider subject matter of the marine environment or on aquaculture, which will be addressed separately.

4. Ministers have been clear, in discussions with UK counterparts, that the Scottish Government is content to work with other UK Administrations to establish frameworks that are common across the UK on devolved subject matters (such as sea fisheries) where the need for and the content of such frameworks is agreed between the UK countries.

5. Ministers have been equally clear however that the devolution settlement, embodied in the Scotland Act 1998, must retain primacy in the consideration of future governance arrangements in the UK, and that the Scottish Government and Parliament must retain the power to establish a policy and connected arrangements that are suitable for Scotland, within the scope of devolved competence.

6. We intend of course to approach these discussions in good faith, and will take account of the lessons learnt in agriculture discussions. Equally, it will be necessary for us to contest lines of argument and asserted logic that we have heard rehearsed by UK colleagues, particularly in relation to approaches argued as necessary to maintain an "internal UK market" or "management of common resources" – politically constructed concepts that do not take precedence over the devolution settlements. Moreover, we will if necessary dispute any suggestion that UK legislation is necessary to ensure that the Scottish Government cannot breach international obligations, as this is already provided for in the Scotland Act.





8. It is not intended that this first meeting reach any conclusions or agreement and of course any conclusions will hold no formal status given that they will be subject to Ministerial views on all sides. We will of course restate our position that any agreement is also subject to satisfactory arrangements on future funding being agreed. I will provide a report and advise about next steps in due course.

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From: Andrew Brown

Sea Fisheries: Marine Scotland
24 January 2018

CABINET SECRETARY FOR THE RURAL ECONOMY AND CONNECTIVITY

CHURCH OF SCOTLAND – CONSULTING WITH RURAL COMMUNITIES

Purpose

1. To make you aware of an offer from the Church of Scotland to facilitate consultations with hard to reach rural communities; and to seek your approval for a small monetary donation to contribute to Church of Scotland officials travel costs and minor expenses.

Priority

2. Routine.

Background

3. Mike Russell, the Minister for UK Negotiations and Scotland's Place in Europe, met with members of the Church of Scotland's (CoS) Church and Society Council to discuss Brexit related issues. The Council representatives offered to facilitate Scottish Government Brexit related consultations with rural communities, referencing the Church's presence and networks in these communities and the facilities available (churches, church halls) to host events. Previously the Church and Society Council of the CoS ran similar community events in the build-up to the Scottish referendum on Independence.

4. Mr Russell asked officials to pursue possible options over a range of rural issues relating to Brexit. The current stakeholder dialogue on the Future of Fisheries Management in Scotland provides a suitable subject and I met with CoS officials in November last year to provide background and discuss possible options.

5. The Church and Society Council has now responded with a firm proposal. In brief they wish to host 3 events (west coast, Orkney and east coast) during the spring, inviting local people and community representatives to discuss a range of issues with a focus on coastal and fishing issues. I will assist in the preparation though Scottish Government officials will not participate in the actual events. The CoS will feedback the outcome of these meetings directly to us.

6. The CoS has asked whether the Scottish Government would meet travel expenses for CoS officials, within the range of £2,000-£3,000 for the 3 events. Cover within current budgets can meet this amount and the Director of Marine Scotland is content to release these funds for this purpose.

7. Following the events both we and the CoS will assess the success of this format of consultation. It may indeed provide a cost effective means of gathering data from hard to reach rural and coastal communities in the future.

Recommendation

8. You note the Church of Scotland's offer of assistance and indicate that you are content for us to proceed with the 3 pilot events.

ANDREW BROWN
 Marine Scotland – Sea Fisheries Policy
 Ext 44197

23 January 2018

Copy List:	or Action	or Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
<ul style="list-style-type: none"> Minister for UK Negotiations on Scotland's Place in Europe Cabinet Secretary for Communities, Social Security and Equalities 					X

- Director of Marine Scotland
- [Redacted]
- Communications Rural Economy and Environment
- [Redacted]

FUTURE OF SCOTTISH FISHERIES MANAGEMENT

Top Lines

The Scottish Government is seeking to establish a world class fisheries management system.

- The Scottish Government has launched a dialogue with key fisheries stakeholders on the future management of Scottish fisheries.
- Brexit will result in a significant legislative gap in fisheries management. Much work is being undertaken to ensure that sustainable, profitable and legal fisheries can continue in the immediate aftermath of Brexit occurring.
- In the longer term we wish to ensure that Scottish fisheries are managed in a way that best benefits the Scottish industry, fishing communities, our marine environment and the Scottish public at large.
- Marine Scotland is currently gathering views from fishermen, processors, retailers, NGOs and fishing communities on how a Scottish fisheries system should be designed and what it should deliver.
- This dialogue is intended to lead to a wider consultation on fisheries measures and policies to deliver the best possible management system in Scottish waters.
- This work also demonstrates the critical need for the Scottish Parliament to gain the legislative powers necessary to establish and manage marine fisheries in a post Brexit UK.

SCOTLAND'S MARINE SECTORS AND THE IMPACT OF EU EXIT

1. Introduction

This paper explains the importance of marine sectors to Scotland, summarises issues that may impact on those sectors as a result of the UK leaving the EU, and sets out the Scottish Government's approach to protecting Scotland's marine interests.

2. Background and Overview

Through "*Scotland's National Marine Plan: A Single Framework for Managing Scotland's Seas*"¹, the Scottish Government is committed to ensuring sustainable development and use of our marine area in a way which will protect and enhance the marine environment whilst promoting both existing and emerging industries. This will play a key role in delivering Scotland's Economic Strategy and the Scottish Government's Purpose of focussing government and public services on creating a more successful country, with opportunities for all to flourish, through creating sustainable economic growth.

Our seas are six times the landmass of Scotland, consisting of over 460,000 square kilometres of some of the most productive and diverse resource in the world. Scotland's seas are the fourth largest in the EU and consist of over 60% of the UK total. This helps explain why marine industries are a key Scottish success story, underpinning our economic growth particularly in rural, coastal and islands communities, and providing long-term quality employment.

In our sea fisheries sector around 4 tonnes of fish on average are sustainably caught from each square nautical mile of Scottish waters compared to an average 1 tonne of fish per square nautical mile for all EU waters. The Scottish mackerel fishery is the EU's most valuable and largest fishery by tonnage while Peterhead is Europe's largest white fish market. 84% of the catch (by value) of Scottish vessels is from Scottish waters while 61% of fish landed from Scottish waters is by vessels from elsewhere in the EU (including the rest of the UK). An estimated 25% of landings by EU countries between 2013 and 2015 was from the Scottish zone.

In the farmed fish sector the aquaculture industry is estimated to support 12,000 jobs across the whole supply chain, with a target to grow to 28,000 jobs by 2030 under the industry's 2030 vision². Scotland is the 3rd largest salmon aquaculture producer worldwide behind Norway and Chile and accounts for approximately 94% of total EU salmon production. Fresh Scottish farmed salmon is the UK's largest food export, worth £346m in the first half of 2017.

¹ <http://www.gov.scot/Publications/2015/03/6517>

² <http://scottishaquaculture.com/wp-content/uploads/2016/10/AquacultureGrowthto2030.pdf>

Scotland is also well placed to take a global lead in the exploitation of renewable energy sources at sea with an estimated 25% of Europe's tidal resource, 25% of its offshore wind resource and 10% of its wave potential. The recent award of a 15 year Contract for Difference (CfD) for the Moray East wind farm demonstrates the strong ongoing growth potential of the sector. When completed, the 950MW farm will be the largest offshore wind farm in Scotland.

More broadly, Scottish marine sectors (including oil and gas services, but not oil and gas extraction) were estimated to support over 48,100 jobs³ in 2014.

Our aquatic environment is also among the most diverse in the world, supporting over 6,500 complex and 40,000 single cell species of plants and animals in inshore waters alone. Scotland's Marine Protected Area (MPA) network covers approximately 20% of our seas and comprises 168 sites. Many of these form a significant component of the OSPAR MPA network in the North East Atlantic.

3. Impacts of EU Exit

The Scottish Government believes that EU membership has delivered significant benefits for Scotland and that independent membership of the EU is best for Scotland. The Scottish Government's position on EU exit was set out in December 2016 in "Scotland's Place in Europe", which is framed in the context of the strong vote within Scotland in favour of remaining within the EU.

Key aspects of Scotland's marine interests affected by Brexit include:

Trade

The EU is Scotland's most significant overseas market for seafood products, accounting for 78% of seafood exports, and worth £601m in 2016. In terms of the UK as a whole, four of the top 5 destinations for our seafood exports are EU members (France, the Netherlands, Ireland and Spain). For example, the UK (within which Scotland has the largest fishery) accounts for more than half of global exports of langoustine, with France, Spain and Italy accounting for 90% of the global import market.

In addition to the benefits of, and access to, the EU single market, Scottish seafood industries currently also trade with non-EU markets. In 2016, for example, UK farmed salmon (the overwhelming majority of which is produced in Scotland) accounted for 20% and 25% of USA and Chinese salmon imports respectively.

The Scottish Government estimates that, in the absence of a trade deal with the EU post-Brexit, a switch to the default World Trade Organisation (WTO) tariff arrangements could lead to EU tariffs between 7% and 13% being imposed on Scottish seafood exports. A report by HSBC in October 2016 also estimated that non-tariff barriers could apply the equivalent of an additional 15% tariff on UK exports to the EU.

³ Scottish Annual Business Statistics 2015

It is estimated that overall loss of access to the Single Market would cost Scottish industry at least £42 million initially.

A number of Scottish seafood products, including farmed salmon, also currently have EU Protected Food Name (PFN) status, which provides legal protection against imitation across the EU. It is estimated that, on average, PFN status increases a product's value by 2.23 times. As well as the potential loss of that price premium, loss of PFN protection for Scottish seafood products post-Brexit also risks imitation products entering the market.

Funding

Under the European Maritime and Fisheries Fund (EMFF), Scotland will receive €107.7 million over the duration of the programme; 46% of the UK total. Together with match funding from the Scottish Government this equates to €134m for Scotland between 2014 and 2020. Marine Scotland also receives approximately £1.2m per annum through the EU's Horizon 2020 and Interreg programmes, funding research and innovation, and cross-border cooperation on shared challenges, respectively.

As well as delivering direct benefits for industry and communities European funding over the programme period also accounts for some £30m of expenditure by Marine Scotland in relation to the costs of science, data and compliance services, which are necessary to manage and support marine sectors.

While the UK Government has guaranteed EMFF funding to 2020, and has indicated its intention to create of a "UK Shared Prosperity Fund", it is unclear, at present, what level of marine funding will be available to marine industries and communities after EU withdrawal.

In the absence of EU funding, it is also unclear how costs associated with compliance and marine science activity will be met in the future. While some data collection obligations may fall away once the UK leaves the EU (potentially resulting in a corresponding decrease in activity) there will still be need to continue to collect data for the effective management of the marine environment to meet international obligations. In addition, non-tariff trade barriers may also introduce new data collection requirements or systems as a result of exit from the Single Market. The financial implications of this cannot be determined at this time.

Labour

Non-UK labour has played a significant role in the success and growth of marine sectors, particularly in relation to rural and remote communities. A wide range of companies operating in marine sectors have consistently flagged the availability of labour from an EU-wide pool as essential.

In relation to the fish catching sector, nationals from European Economic Area (EEA) and non-EEA countries account for 8.1% and 19.3% of crew on Scottish fishing vessels respectively. An estimated 56% of the seafood processing workforce in Scotland is from non-UK EU/EEA countries. In the Grampian region 70% of the total reported workforce in the processing sector are citizens of other EEA countries, the greatest proportion per region in the UK as a whole.

An estimated 6,000 non-UK EU citizens are employed in the farmed salmon industry (primary and secondary production).

Non-UK nationals play a particularly significant role in relation to highly skilled, specialist roles. An estimated 30% of current UK vets are non-UK EU nationals. Similarly, approximately 12% of Marine Scotland Science staff are EU nationals.

Marine Environment

Membership of the EU has enabled significant progress to be made in protecting our natural assets and has facilitated the collective action needed to tackle major environmental challenges. Overall, it is estimated that more 80% of the environment legislation passed by the Scottish Parliament originates at EU level.

Even if Scotland and the UK as a whole were to leave the European Single Market, Scottish companies wishing to export into the EU would be required to comply with relevant EU requirements (including environmental requirements). We would, however, have no ability to influence or shape the development of the legislation and regulations underpinning these requirements.

4. The Scottish Government's Approach to Protecting Scotland's Marine Interests

The Scottish Government is committed to ensuring that the interests of people, communities and businesses in Scotland are protected in all scenarios for Scotland's future.

The Scottish Government is continuing to look to the UK Government to agree a means by which the Scottish Government can play a direct and representative role in the UK's negotiations with the EU. Through ongoing engagement with the UK Government and other devolved administrations we seek to ensure that the approach to any EU exit negotiation is pursued on the basis of a genuine partnership between all four UK administrations.

The Scottish Government continues to make clear to the UK Government the vital importance to Scotland of protecting the interests of marine-related sectors. We have continued to seek assurances that access to Scottish waters will not be used to secure other UK interests during the Brexit negotiations. No such assurance has, to date, been received. The Scottish Government has also made clear its view that future quota negotiations and access arrangements should take place through existing Coastal States Frameworks, with a clear role for Scotland.

We have also emphasised the great significance of the aquaculture sector, along with its associated service sector and academic and research community, to the UK economy, and the need for EU exit not to compromise the sector's fantastic potential to deliver continued sustainable growth. We also continue to seek assurances that Scotland's share of future funding arrangements delivers an equitable allocation which reflects the importance of Scotland's marine sectors.

The Scottish Government is clear that there are areas where a common approach across the UK is both desirable and mutually beneficial, and we are fully supportive of ongoing engagement and partnership working in those areas. The imposition of UK frameworks (e.g. in relation to fisheries) would, however, very clearly undermine the devolved settlement. We have made clear to the UK Government that we will only participate in UK frameworks in areas of devolved competence where express legislative consent has been given and where it is in Scotland's interests to do so.

The Scottish Government is particularly concerned at the failure of the European Union (Withdrawal) Bill to return powers in devolved areas from the EU to the devolved administrations, as required by the devolution settlement. Instead, the Bill centralises to Westminster powers on all matters that are currently subject to European Union legislation, including those in devolved areas—in other words, powers that should properly be exercised by the Scottish Parliament have been passed from Brussels to London rather than coming to Scotland.

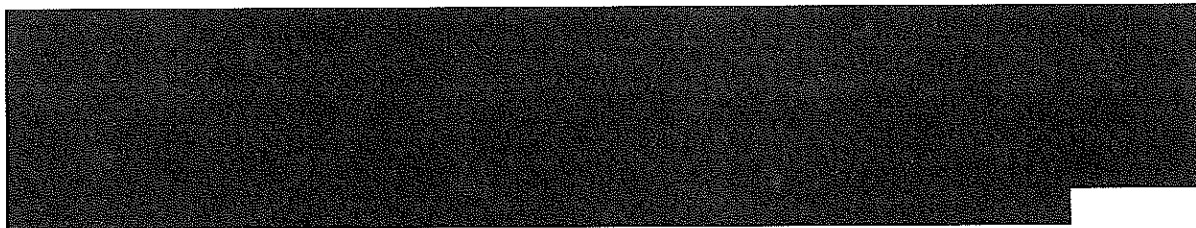
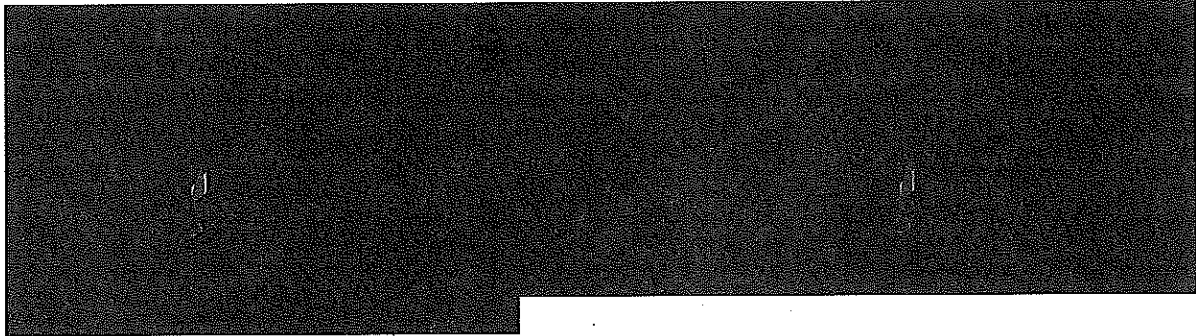
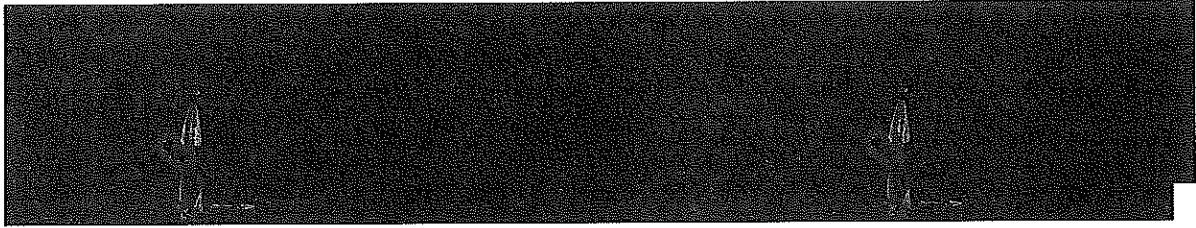
As drafted, the Bill lifts from the UK Government and UK Parliament the requirement to comply with EU law, but it does the opposite for the devolved legislatures by imposing a new set of strict and unworkable restrictions on the Scottish Parliament and Scottish Ministers (in particular preventing the devolved administrations from amending retained EU law).

A whole category of EU law – directly applicable EU instruments – would be beyond the power of Scottish Ministers to amend, even when the subject matter of the law was devolved (e.g. management of sea fisheries) and where devolved institutions, structures and circumstances in Scotland are entirely different to those in the rest of the UK. As a result, Scottish Ministers have made clear that they cannot, and will not, recommend that legislative consent is given to the Bill, as it currently stands.

The different nature of marine issues across the UK has already necessitated different policy approaches by different UK administrations, and a range of marine areas are clearly and legislatively devolved to the Scottish Parliament. The Scottish Government is therefore clear that all powers returned from the EU in devolved areas, such as fishing, must come to Scotland. Thereafter clear governance arrangements, where necessary, can be agreed between the four UK administrations for intra-UK working according to pan-UK frameworks where this would make sense.

“Scotland's Place in Europe” also sets out how and why the further transfer to Scotland of currently reserved powers may be needed in order to ensure that Scottish interests are protected in the event of EU exit. Such powers may include control over immigration to ensure that marine sectors can continue to access the labour and skills they need.

Fisheries and Brexit



Top Lines

- The Scottish Government agrees that the CFP has been cumbersome and unduly burdensome on the Scottish fishing industry; largely because we have had limited scope to influence or shape the policy.
- Were Scotland to be an independent member of the EU, Scotland's voice would be heard and we would be able to help fashion a much improved CFP.
- The powers of the Scottish Parliament over fisheries, the Scottish zone and Scottish vessels wherever they operate must not be interfered with in any way.
- The UK Government's position on post-Brexit fisheries is unclear and contradictory. Scottish communities and businesses expect and deserve answers about the UK Government's intentions.
- Clarity from the UK Government about the scope and content of their planned fisheries legislation, and the precise nature of any proposed post-Brexit "transitional period", is now a matter of urgency.
- There should be no attempt to use access to Scottish waters to secure concession on trade in the Brexit negotiations. The UK Government must provide a clear and unambiguous guarantee on that point.

- It is also imperative that the UK Government clarify the future arrangements that will replace vital European funding streams. Scotland must not be “short-changed”.

Successive UK governments have failed to protect Scotland’s fishing interests

- Despite a revised Fisheries Concordat being agreed between the 4 Ministers in August 2016, the UK has continued to delay its publication to the detriment of Scotland.
- The new Concordat provides the Scottish Government and all UK administrations, with greater control over their share of UK quotas.
- Scotland lost out on a total of 1,129 tonnes whiting quota with a value of £1.2m over the last 5 years because of the way that the UK Government distributes Hague Preference quota; mainly benefitting fishermen in North East England.
- In the annual quota negotiations, Scotland has to dilute its set of negotiating priorities to accommodate those from the rest of the UK. We lose an opportunity to vote for some of our own interests.
- In EU/Norway negotiations, the UK has regularly voted for a swap package disadvantaging Scotland.
- For example, in 2017 Scotland forfeited over 20,000 tonnes of Blue Whiting in relation to Arctic Cod swaps, worth around £4 million at 2016 prices, but gained no benefit; not even a single kilogramme of Arctic Cod that came back.

We have made the CFP work - as much as we can - for Scottish fishing interests

- Scotland is a major fishing nation in the north east Atlantic, holding 38 per cent of the EU Total Allowable Catch (TAC) for key stocks.
- We therefore enjoy significant influence and respect in the international processes that establish quota and fisheries management arrangements.
- During the 2013 CFP reform, Scotland called loudly for ‘Regionalisation’ to end top-down fisheries management.
- These Groups give Member States a stronger say in the development and application of EU fisheries policy and facilitate useful partnerships with fishermen, NGOs and scientists.
- Scotland pushed hard, firstly through the UK, then through the Regional Groups, to secure ‘phasing in’ of the landing obligation to give our fishermen longer to adapt to the new rules. Without this, the full impact of the discard ban would have been felt much sooner.
- Our fish stocks have benefited from the CFP’s drive towards fishing at sustainable levels by 2020. In 2016, of 19 key Scottish stocks, 13 (70%) were fished at or very close to sustainable levels – up from 11 (60%) in 2015.

We cannot ignore the threats that Brexit represents to trade, labour and funding for fishing

- Brexit means losing tariff free access to the single market, threatening the export success of Scottish seafood.
- It also means losing freedom of movement and the vital contribution of EU nationals to our seafood industries.

- And it will result in the loss of vital funding which supports individual businesses, infrastructure and communities – since 2009, Scotland has received over £100 million support from the EU.
- The Scottish Government already put forward a compromise approach to the UK Government that would see Scotland retain access to the Single Market but not be bound by the CFP.
- Sadly UK membership of the single market was ruled out with no prior consultation with the Scottish Government, leaving us facing not just Brexit, but a hard Brexit.
- If Scotland can be ignored on an issue as important as this, then our voice and our interests can be ignored at any time and on any issue.
- Regardless of the outcome of Brexit negotiations, the guiding principles of domestic fisheries policy should be sustainability and science-based quota setting, in line with our international treaty obligations.
- It will benefit no-one for fishing in Scottish waters to be a deregulated “free for all”, with stocks fished at unsustainable levels.
- In every scenario for Scotland’s future, our willingness to work with European partners to ensure sustainable stock management will remain unchanged.
- Scotland must, however, have a voice where our interests are at stake.
- We do see access for EU fleets continuing post-Brexit, although decided annually through bilateral agreement and sensitive to the priorities of both parties, as is the case for bilateral fisheries agreements between the EU and countries such as Norway and the Faroe Islands.

The Scottish Government is clear that fisheries is a firmly devolved issue

- It is now confirmed that the UK Government plans to introduce a bill to establish a new UK fisheries policy. This now stated intention causes very significant alarm for Scottish fishermen.
- Since 1999, fishing has been an issue clearly and legislatively devolved to the Scottish Parliament, and prior to that was managed by Scottish Departments.
- This reflects the significant differences in fisheries across the UK, and the need for fisheries management to be tailored to Scottish circumstances.
- The EU (Withdrawal) Bill threatens to re-reserve these powers to London in one fell swoop.
- There are areas where a common approach across the UK is desirable and mutually beneficial, and we fully support on-going engagement in those areas.
- We have always sought to engage constructively with the UK Government, but that willingness has not always been reciprocated.
- An imposed UK fisheries framework would clearly undermine the 1998 settlement.
- We will only participate in UK frameworks for devolved competencies where express legislative consent has been given and where it is in Scotland’s interests to do so.
- It is vital therefore that all powers over policy be repatriated to Scotland and a fair share of EU funding for marine sectors be transferred to Scotland in full, with decisions on that investment to be taken in Scotland.
- The Cabinet Secretary for the Rural Economy and Connectivity has written to the Defra Secretary of State numerous times, most recently on 22 September, seeking assurances on Scotland’s marine funding [current 46% of overall UK EMFF funding] after Brexit. No such assurance has, however, been provided.

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Cabinet Secretary for the Rural Economy and
Connectivity
Fergus Ewing MSP



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The Rt Hon Michael Gove MP
Secretary of State for Environment, Food and
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Nobel House
17 Smith Square
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SW1P 3JR

27 July 2017

Dear Michael,

FUTURE FUNDING ARRANGEMENTS FOR THE MARINE SECTOR

As you know, EU support for the marine sector in Scotland is delivered through the European Maritime and Fisheries Fund (EMFF). The EMFF delivers much-needed support not only to businesses but also provides some £30m of public investment in science, data collection and compliance activity vital to the sustainable management of Scotland's marine resources.

The EMFF forms part of the Treasury guarantee to honour funding commitments flowing from European Structural and Investment Funds until the point of the UK's scheduled departure from the EU. While this guarantee is welcome, it still leaves outstanding questions (relating not only to the EMFF but also, for example, to the CAP Pillar 2 Less Favoured Area Support Scheme) as current funding levels do not reflect the importance of these sectors in Scotland. There has also been a distinct lack of transparency on future plans to replace this funding and I am seeking early clarity on this point.

Support to the marine sector through the EMFF already leaves Scotland 'short-changed' in terms of the share it receives of available EU funding. The UK negotiated €243 million for the duration of the EMFF programme, of which Scotland will receive up to 46% (€107.7 million). When agreeing the UK's share of the EMFF the UK Government's negotiating position deliberately constrained the UK's share to a level below that which fairly reflects the extent of the UK's marine activity (because of wider negotiating goals imposed by HM Treasury.) This is reflected in the allocation received by Scotland, which receives less than 2% of the EU's total available EMFF funding, despite having 13% of EU aquaculture production (including 94% of total EU salmon production), 9% of the EU's sea fisheries landings and the 4th largest EU sea area to manage.



In any future funding arrangement it would be unacceptable to Scottish Ministers for Scotland to continue to be short-changed in this way. Allocating a fair share of public investment to Scotland's marine sectors would also of course benefit the UK economy as a whole, given the fact that Scottish farmed salmon is the UK's Number 1 food export and that Scottish vessels land 61% of the UK's wild-caught fish.

This is not the only area in which Scotland has not received its fair share of EU funding. As I mentioned when we met, under the CAP the UK Government has yet to pass on the full £190 million convergence uplift that rightly belongs to Scottish farmers. It is essential that the UK agriculture funding allocation is reviewed, as promised by successive Defra Secretaries of State, and that the convergence issue is resolved now.

Both business and the public sector require certainty to be able to plan for future investment. I am therefore very concerned that, over a year following the EU referendum, there is still no clarity on the UK Government's thinking with regard to future funding arrangements following an EU exit. The Conservative Party manifesto committed to a UK Shared Prosperity Fund to replace existing EU structural funds, including a commitment to 'consult widely on the design of the fund, including with the devolved administrations, local authorities, businesses and public bodies.' However as yet neither I nor my officials have received any invitation to contribute to emerging thinking on this topic.

In the marine sector Scotland's circumstances are very distinct from the rest of the UK. Our seafood industry is characterised by a large aquaculture sector vital to remote rural communities in the West and North of Scotland and by a relatively large fishing fleet servicing an onshore industry primarily concerned with primary processing of fresh fish. This is very different to the industry in the rest of the UK. Similarly, in terms of agricultural support 85% of Scotland's agricultural land is classed as less favoured, compared to 15% in England, highlighting the need for support to be tailored to the differing needs of our agricultural sectors.

Thus, any prosperity fund would need to respond to Scotland's distinct needs and the governance of such a fund would have to respect the devolution settlement and the competence of the Scottish Parliament in devolved areas of policy. Specifically, proposals for any future UK-wide arrangement would need to be consented to and agreed by Scotland rather than imposed.

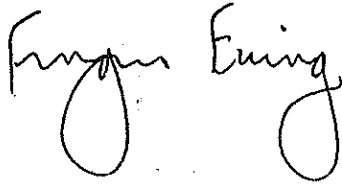
We are also clear that the allocation of funding for any such arrangement would require to be agreed with Scotland and to take account of the significant challenges which Scotland faces to manage its marine and terrestrial resources, in a sustainable and effective manner. In terms of the marine sector this should be reflected through the allocation of a fair share of resource for marine purposes.

The potential for changes in our relationship with the EU and in the future of EU-sourced funding arrangements also add urgency to the already pressing need to resolve the issue of the Seafish levy arrangements and the clear case for devolution of these levy powers to Scotland, an issue which carries strong industry support. This is absolutely required to enable Scotland to take a properly rounded and strategic approach to provision of support for its marine sector.

I would be grateful therefore if you could provide me with clarity on your intentions both on future of EU-sourced funding arrangements and on devolution of the Seafish levy arrangements to Scotland, including how and when you propose to engage Scotland and the other devolved administrations in your developing thinking on these topics.

I would therefore seek a meeting with you to discuss this vital issue and also the various other vital issues I have written about, and mentioned to you at our short chat at the Royal Highland Show.

Yours sincerely,

A handwritten signature in black ink that reads "Fergus Ewing". The signature is written in a cursive style with large, flowing loops.

FERGUS EWING

7
Cabinet Secretary for the Rural Economy and
Connectivity
Fergus Ewing MSP



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The Rt Hon. Michael Gove MP
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22 September 2017

John Mitchell

FUTURE FUNDING ARRANGEMENTS FOR THE MARINE SECTOR

Thank you for your letter of 17th August in response to my letter of 27th July about future funding arrangements for the marine sector and the regulation of GM crops after EU exit.

I welcome your confirmation of the position agreed between Ministers that if other parts of the UK find they are underutilising their EMFF allocations those funds may be transferred to Scotland to ensure they do not go unused (you may be aware that unfortunately many millions of euros were left unspent under the previous programme due to underspends in some parts of the UK while projects were left unfunded in Scotland, a situation we will clearly wish to avoid under the EMFF by ensuring that underspends can be efficiently transferred within the UK.) I have therefore asked my officials to liaise with yours and those of the other devolved administrations so that the senior officials' steering group established for the purpose can arrange the intra-UK transfer of available EMFF underspends in order to fully commit all UK funds to priority projects by the Treasury guarantee deadline of March 2019.

I also note your intention to 'consult' the Devolved Administrations on the design of a UK Shared Prosperity Fund. Given that the remit and purpose of such a fund would fall squarely within the devolved competency of the Scottish Parliament it deeply concerns me that you should intend to treat Scotland and the other devolved administrations as no more than consultees and, indeed, that a prior decision seems to have been taken by the UK Government to impose a pan-UK approach in relation to post-EU exit funding arrangements for key areas of devolved activity. If the devolution settlement is to be respected then the decision to establish any such fund can only be taken with the mutual consent of all the UK administrations. Thereafter, if Scotland were to agree to enter into such an arrangement, we could only do so on the basis of entering into a genuine partnership by which the fund would be jointly designed and signed off by the four UK jurisdictions. I would therefore be grateful for urgent clarification on how the UK Government intends to proceed in this area in a way which properly respects the devolution settlement.

Finally, in relation to future levels of investment for the marine sector following potential EU exit I would note that, contrary to what you suggest at the outset of your letter, there were in fact no clear criteria which formed the basis for the UK's current allocation of EMFF funds. This was confirmed in evidence given by Defra to the Scottish Parliament's Rural Affairs, Climate Change and Environment Committee in 2014, which stated that: 'in all honesty, we do not know precisely how the Commission determines the allocations.' I think it important to stress this point in order to emphasise that, while Scotland receives the largest share of the EMFF, that is nevertheless a share of a very small overall pot, the size of which was not transparently determined, which compares poorly with the level of funding secured by other Member states and which fails to reflect the extent of the UK's marine activity.

I am copying this letter to the First Secretary of State, the Secretary of State for Communities and Local Government (who I understand has lead responsibility for the UK Shared Prosperity Fund), Michael Russell MSP, Minister for UK Negotiations on Scotland's place in Europe and to Lesley Griffiths AM at the Welsh Government.

Yours sincerely
Fergus Ewing

FERGUS EWING



Department
for Environment
Food & Rural Affairs

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The Rt Hon Michael Gove MP
From the Secretary of State for Environment, Food
and Rural Affairs

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Fergus Ewing MSP
Cabinet Secretary for the Rural Economy and Connectivity
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21 December 2017

Fergus Ewing

Thank you for your letter of 30 November, your firm commitment to the principles of the landing obligation and for sharing your concerns about the feasibility of the policy in its current form.

I strongly agree with you that our priorities here must be to secure the sustainability of UK fisheries, improve accountability and reduce discards. The challenge represented by choke species is a considerable one and I am fully committed to developing appropriate solutions, both while we remain in the EU and after our departure.

I want to see the implementation of a successful discard policy that ends this wasteful practice and that addresses the differing contexts across the UK.

In the short term it is paramount that we work constructively with EU Member States over the next year to make sure we are best prepared for the full implementation of the EU landing obligation from 1 January 2019. None of the UK administrations will want to see our fleets tied up early in 2019. I agree that we must make the case to introduce measures that pragmatically address the most challenging choke risks while also reducing discarding. I hope Defra and the devolved administrations will continue to work closely on this over the months ahead.

As we leave the EU, the four UK fishing administrations will need to continue working closely together to make sure we have in place a fishing policy that supports a profitable and sustainable UK fishing and seafood sector, as well as a healthier and more productive marine environment. This is an opportunity to tailor fisheries management measures, including the landing obligation, to demonstrate leadership on environmental sustainability and better suit the realities of our fleets.

I am very keen to see constructive discussions and sharing of ideas between the administrations about how we take forward the discard ban outside of the Common Fisheries Policy. This can usefully be considered in the context of discussions about options for UK frameworks for fisheries policy, in the light of the principles on common

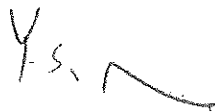


approaches and different governance arrangements agreed at the meeting of the Joint Ministerial Committee (EU Negotiations) on 16 October.

As you know, our officials – and those of the Welsh and Northern Irish administrations – have given very positive reports of the recent workshop on UK frameworks for agriculture. I am keen that they should therefore move swiftly to a similar workshop on fisheries, which is of huge importance to both of us, in January.

I understand that due to diary commitments you are unable to join the next inter-ministerial meeting on 14 December but I look forward to further discussions with you across the broad range of issues of mutual interest in due course. In the meantime I look forward to hosting discussions with Roseanna and our Welsh and Northern Irish colleagues on Thursday.

With every good wish,



Michael Gove

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Cabinet Secretary for the Rural Economy and
Connectivity
Fergus Ewing MSP



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The Rt Hon Michael Gove MP
Secretary of State for Environment, Food and
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30 November 2017

Dear Michael,

I am firmly committed to the principles behind the landing obligation: reducing waste, improving accountability and safeguarding sustainability of fish stocks. Even so, the issues around choke species are serious and we need to address them before we can move forward on the landing obligation.

Following work my officials have completed for the Regional Groups and the UK, I am convinced that the existing tools contained in the Common Fisheries Policy to address choke species do not resolve problems such as West of Scotland cod and North Sea hake without either undermining the sustainable management of stocks or rendering the landing obligation unenforceable. We need to redouble our efforts with our EU partners to agree rules which effectively meet this challenge.

As you will be aware, I have publically stated that I am unwilling to tie my fleet up very early in the year because it has not been possible to solve the problem of choke species, or that possible alternative solutions have not been introduced. Equally, I am unwilling to agree to some of the suggested solutions which would allow vessels to continue discarding at current, or higher, rates, costing us control over fishing mortality and tying us up in red tape.

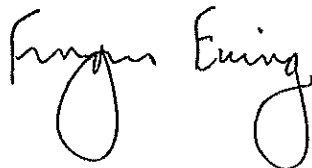
I believe we must work together to secure the right solutions to choke before 2019. I will also be open to a more effective approach to tackling discards post-Brexit. As part of this, it is essential that we continue to have the flexibility to evolve our approach to fisheries management in the same way that the EU's approach will.

In order to deliver on our goals to end discarding, fish sustainably and maintain a profitable fishing fleet, we will need to be able to tailor the rules to fit our circumstances – Scotland is in a unique position, I am more clear than ever before that the imposition of a one-size fits all policy from Westminster if the UK does leave the EU will not be in our best interests.

Therefore I'm sure you will agree, it is essential that the Scottish Parliament maintains its existing competence over fisheries as set out in the devolution settlement in order that we may evolve our policy as well.

Within Scotland we are working with stakeholders to develop the necessary adjustments to the landing obligation to secure sustainability and accountability in our fisheries. I would be happy to share these ideas with you once the discussions have concluded.

Yours sincerely,



FERGUS EWING