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Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-LG-1429-20

Mike Hedges AM
Chair
Climate Change, Environment and Rural Affairs Committee

Mike.Hedges@assembly.wales

1 May 2020

Dear Mike

Thank you for your letter dated 17 April, regarding the Legislative Consent Memorandum (LCM) for the UK Fisheries Bill. I note you are seeking a written response, in lieu of me attending an evidence session.

The current COVID-19 pandemic continues to have an impact on Bill progression through UK Parliament and Senedd Cymru (the Senedd). I had originally planned to seek a Legislative Consent Motion debate in the Senedd in mid-May, however, the lack of progress has meant this timeframe for a debate would be premature. I will revisit this once I have a firmer picture of the timings for the Bill stages in UK Parliament.

At the time of writing, we do not have confirmed dates for when the Bill will progress to Lords Report stage but my officials are in regular contact with Defra officials and will be working with them to ensure adequate time for scrutiny by the Senedd.

I note the Business Committee have extended the reporting deadline for the LCM from 7 May to 21 May and I am grateful to the Clerking Team for agreeing a short extension to the response date of this letter.

Fisheries Objectives

1. In your view, what are the main benefits arising from these changes? Please include specific examples of how these changes could influence policy development in Wales?

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

2. Can you explain the purpose and intended effect of the ‘national benefit’ and ‘climate change’ objectives? How will these be reflected in future fisheries policy in Wales?

I will answer your first two questions together. The main benefit of the changes and the new objectives is a single set of strengthened UK wide fisheries objectives to ensure a more coherent UK framework. The previous Bill contained a sub set of objectives which have now been included in the main objectives in clause 1, providing increased coherence in fisheries policy making across all four fisheries administrations.

The Joint Fisheries Statement (JFS) will set out policies of the four fisheries administrations, for achieving, or contributing to the achievement of the fisheries objectives set out on the face of the Bill. A joint statement does not however mean every administration in the UK will have to have exactly the same policies in order to meet the objectives in the Bill. In many cases this would not be appropriate due to different types of fisheries across the UK, and the different fleets in each Administration. The JFS will be jointly agreed and will be legally binding.

We are committed to maintaining or enhancing the environmental protections we have in place, including our ongoing commitments to managing our fisheries in line with Maximum Sustainable Yield (MSY). There will be no roll back on our commitment of standards in the marine environment. Last year we adopted the first ever Welsh National Marine Plan which sets out a 20-year vision for clean, healthy and productive Welsh seas.

With our exit from the European Union, developing a Future Fisheries Policy for Wales is a key priority. We will build on the views provided through Brexit and Our Seas and we will continue to work, in collaboration, to deliver our Future Fisheries Policy. Leaving the EU and, therefore, the Common Fisheries Policy (CFP) provides us with the opportunity to consider an integrated fisheries policy which meets the needs of Welsh fishers and our coastal communities. At the centre of this is a fisheries policy which recognises the need to extract more benefit for coastal communities from this public resource while ensuring our stocks can continue to provide benefits for future generations. This is more important than ever as we help the industry to recover from the impacts of the COVID-19 pandemic. It was my intention to make a written statement on the outcome of Brexit and Our Seas and outline next steps for our Future Fisheries Policy last month, however, I took the view to pause this to enable us to take account of the impacts of COVID-19 on our industry and impacts related to EU transition.

The “national benefit objective” is that fishing activities of UK fishing boats bring social or economic benefits to the United Kingdom or any part of the United Kingdom. For example, this may have the effect of requiring at least some catches to be landed in UK ports. Currently this objective is achieved through the economic link condition via the licensing system.

The “climate change objective” requires any adverse effect of fish and aquaculture activities on climate change to be minimised, and for fish and aquaculture activities to adapt to climate change. This objective recognises the impact of fishing on the health of our oceans. In Wales, we have duties under our own legislation including the Well-being of Future Generations (Wales) Act 2015, Environment (Wales) Act 2016 and clear commitments to tackling climate change. Therefore, we support the inclusion of this objective, which brings this UK Bill closer to the existing Welsh situation, and we will set out our policies in the JFS.

3. The definition of ‘bycatch’ relates only to fish of a different description. Will the ‘bycatch objective’ require fishers to land all fish including any excess quantities of fish that may cause them to exceed the quota for that stock?

The retention of the Landing Obligation will require the landing of target species in excess of authorised quota limits for a vessel. The excess quota landed will be accounted for against the national quota for that species.

4. Can you explain why the landing element of the ‘bycatch objective’ does not mirror the landing obligation under Article 15 of the Common Fisheries Policy Regulation given that this obligation is retained UK law? Can you reassure us that this will not result in a regression from the current obligation?

The objective maintains the existing Landing Obligation requirements and flexibility in Article 15 of the CFP to enable us to manage activities in our waters in line with the Landing Obligation, where this is applicable. The Objective has been redrafted to more accurately reflect the outcome we are aiming to achieve – the end to the wasteful practice of discards which result from bycatch.

The Landing Obligation within Article 15 of CFP is being rolled over as EU retained law. Following the end of the Implementation Period, we will be able to develop a discards policy or policies to best fit our industries and protect the marine environment. The JFS will set out how the fisheries administrations, either individually or collectively deliver the “Bycatch Objective”.

5. How do you respond to concerns that the 2019-21 Bill falls short of a legal commitment to MSY, and therefore constitutes a regression from current environmental standards?

We all want to fish sustainably, and MSY is the international standard. Indeed, I have been clear the UK Fisheries Bill could go further on MSY and I know there is a desire for a legal requirement to fish at or below MSY.

We also need to recognise the UK is not the only interested party. Almost all of our stocks are shared internationally. The annual quotas will be set at coastal states’ negotiations. A legally binding duty, which required the UK to effectively walk away if the other nations would not comprise, is in no one’s interest and could lead to unsustainable unilateral quota setting.

We are committed to fishing at levels below that which would achieve MSY as advised by ICES, where appropriate. It is important Ministers, when taking these difficult decisions, are able to continue to balance all elements of sustainability.

6. Can you explain why, unlike the 2017-19 Bill, the 2019-20 Bill does not revoke Article 2 of the Common Fisheries Policy Regulation?

The fisheries objectives in the Bill will replace the objectives currently within Article 2 in order to ensure policy alignment with retained EU law, which will be achieved by amending existing references to Article 2 across the statute book. This will better match the policies in the JFS with those existing references, and this is currently being considered by UK Government.

7. What discussions did you have with the UK administrations ahead of the introduction of the 2019-21 Bill on including such a requirement in this latest version of the Bill? What was the outcome?

8. In the absence of a requirement in the UK Bill to review the fisheries objectives, can you give the Assembly an assurance that they will be reviewed periodically in Wales, and explain what mechanisms will be put in place to provide for this?

I will answer questions 7 and 8 together. I am grateful to the Committee for raising this point in their scrutiny on the previous Bill and my officials did pursue an amendment on this point. However, following consideration by all four administrations the collective view was, given the high level nature of the objectives, it is not necessary to prescribe a review on the face of the Bill. Indeed, I think it is difficult to disagree with the fisheries objectives. These objectives are cornerstones of modern fisheries management and we want to maintain certainty and avoid them being changed regularly.

The JFS and the six yearly cycle of review, required by the Bill, will provide opportunity for consultation and scrutiny on whether the measures in place are adequate to achieve the fisheries objectives.

Joint Fisheries Statement and fisheries management plans

9. What is the purpose and intended effect of the new provisions in relation to fisheries management plans? Can you explain how you believe these additions will assist you in developing policies for Welsh fisheries?

I was clear the UK Fisheries Bill could go further on MSY and I am pleased to see the changes included upon introduction of the Bill which makes significant progress on ensuring our fisheries are managed sustainably, while respecting devolution and recognising the practical realities of fisheries management.

These provisions align with the Welsh Government commitment to the sustainable management of our fisheries. The provisions require a statement to be made within the JFS on how fisheries administrations will use fisheries management plans to achieve or contribute to the achievement of the fisheries objectives. The JFS will contain a list of plans to be developed and must set out a timetable for preparation and publication of the plans.

For each stock covered in a plan they must specify whether the scientific evidence is sufficient to enable an assessment of a stocks MSY and if it is, they must specify policies for restoring the stock to, or maintaining it at, sustainable levels or for contributing to its restoration to, or maintenance at, sustainable levels. If the evidence is not sufficient it must state policies for maintaining or increasing levels of the stock (using a precautionary approach) and specify steps to obtain the necessary scientific evidence or specify reasons why steps are not being taken.

The fisheries management plan approach will provide us with the flexibility to implement management measures on a stock by stock, or fishery by fishery, basis, allowing for a holistic view of our fisheries and their link to the wider environment.

10. Concerns have been raised by stakeholders that there is no requirement on the Welsh Ministers to prepare fisheries management plans, unless they set out their intention to do so in the Joint Fisheries Statement ('JFS'). How do you respond to this?

11. Can you clarify whether you intend to publish fisheries management plans for all stocks, including non-quota stocks in Welsh waters? If not, how will you decide which stocks should be the subject of a plan?

I would like to respond to these questions together, as it is fundamental to the development of the JFS and FMPs we work with stakeholders to develop the right policies for Wales.

It will be up to each fisheries administrations to determine what FMPs they plan to prepare and the JFS will set these out. This is entirely appropriate given the devolved nature of fisheries management.

It is too early to say which stocks will be subject to an FMP. As we develop our Future Fisheries Policy we will be working, with stakeholders, scientists and other governments to determine which plans we will put in place.

12. Concern has been raised by stakeholders that the power for the Welsh Ministers to deviate from the JFS and fisheries management plans is broadly drawn and could undermine the effectiveness of the Bill in delivering sustainable fisheries. How do you respond to this?

I will first restate our commitment to delivering sustainable fisheries and I do acknowledge the concerns raised. The Bill does provide a power for any of the fisheries administrations to deviate from the JFS where relevant change of circumstances allow. But this would be exceptional, would not be taken lightly, and would of course be challengeable in court.

There are a number of scenarios where this might be necessary. For example, if there was an oil spill, or a change in scientific advice, or any scenario where we may need to act in contravention of the contents of the JFS.

The removal of the power to deviate would run the risk of forcing the JFS to be drafted at an extremely broad and high level, to preserve our devolved competences and the flexibility required to sustainably manage our fisheries. It would, in effect, make the JFS meaningless and I'm sure this is not the intention.

13. Can you update us on any preparatory work you have undertaken over the last 12 months in relation to the JFS?

There has been joint development work on the draft JFS by the fisheries administrations throughout the last 12 months, including a stakeholder event in July 2019 where stakeholders were asked to consider a number of categories and related themes, as a starting point, these were:

Stock management - Managing stocks sustainably, negotiations, fishing opportunities, quota and non-quota (shellfish), aquaculture, reducing discards

Governance and Engagement - Devolution, engaging stakeholders, partnership working

Onshore activities - Coastal communities, processing, marketing, supply chain considerations, consumption of seafood

Marine environment - Healthy, resilient marine ecosystems, ecosystem approach, marine pollution, biodiversity

As a result of the workshop thematic areas for policy development were identified and will be taken forward in the development of the JFS. The JFS content will evolve as we undertake further stakeholder engagement and collaborative working with the other fisheries administrations.

The Bill requires the JFS to be in place within 18 months of the Act being passed and my officials are working with the other administrations to put in place the necessary arrangements and timeline to achieve this.

Access to British fisheries and regulation of foreign fishing boats

14. Can you provide an update on the outcome of those discussions? In particular what, if any, additional licensing requirements do you intend to impose in respect of Welsh waters?

The Single Issuing Authority has been established within the Marine Management Organisation and a Section 83 Government of Wales Act (GOWA) agreement is in place to allow licenses to be issued on behalf of Welsh Ministers. Any licence granted under this arrangement will first be authorised by Welsh Government officials taking into account previous access by the vessel and historic practice. Each of the fisheries administrations will provide generic and area specific conditions, such as special restriction if required. At present, EU vessels do not require a licence to fish in our waters and as a result licence conditions do not apply. I expect, as a minimum, foreign vessels will in future be subject to the same licence conditions as UK vessels operating in Welsh waters.

15. Can you clarify whether and how the Bill will prevent foreign owned vessels registering as British?

The Bill does not prevent foreign owned vessels registering as British. In practice, we think this is highly unlikely. Any vessel joining the UK fleet would need to acquire access to any quota stocks to enable fishing to commence. There may be scope through Producer Organisations, however, it is not thought likely this course will be taken.

It is also important to note, any vessel which is registered as a UK vessel would be subject to the policies which support the national benefit objective.

16. Can you clarify whether publicly owned companies quoted on the London stock exchange are treated as British?

I think this question is outside of my remit. However, in relation to the Bill, the definitions of “British fishing boat” and “British-owned” are:

“British fishing boat” means a fishing boat—

(a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995,

(b) which is British-owned, or

(c) which is registered under the law of Jersey, Guernsey or the Isle of Man;

“British-owned” means owned by—

(a) a person who is for the purposes of Part 2 of the Merchant Shipping Act 1995 a person qualified to own a British ship, or (

b) two or more persons any one of whom is for those purposes a person so qualified.

17. Can you confirm whether the powers provided to the Welsh Ministers to set licencing requirements will enable them to require onboard CCTV and remote electronic monitoring as a condition of licence? If so, do you intend to impose such conditions?

- **If you do not intend to set a licensing requirement of on board CCTV and remote electronic monitoring, how do you intend to ensure effective monitoring and control?**

We already have the power to apply conditions on a licence to this effect and will continue to have this power once the Bill is in place. It is for the fisheries administrations to set the conditions for a licence. The current fishing practices by Welsh licensed vessels have not required the use of this power to date however, it may form part of a range of options for control and enforcement in the future and will be kept under review.

There are a range of enforcement tools already employed by UK administrations with regard to Control and Enforcement, these include Vessel Monitoring Systems and Electronic Recording Systems. Both apply to all over 12 metre vessels under current European legislation which will be rolled over into UK law. Furthermore, we will look to use the powers within licensing to enhance the reporting by non UK vessels operating in our waters, including such measures as hailing in and hailing out when operating within the UK Exclusive Economic Zone. These powers will extend to all non UK vessels and not just those which are over 12 metres. We will also use licence conditions to ensure non-UK vessels adhere to UK domestic requirements, for example Closed areas which they are currently exempted from.

Fishing opportunities

18. Can you update us on progress made since March 2019 on the development of the Fisheries Memorandum of Understanding ('MoU') and Dispute Resolution Mechanisms?

The drafting of the UK Fisheries Framework Memorandum of Understanding (MoU) is underway by cross Government working groups and although there have been delays over the last year to progress this work, we expect it to be in place by the end of the Implementation Period. My officials are working closely with Defra and the Devolved Administrations to progress all elements of the Framework. I have always maintained the importance of there being adequate dispute resolution arrangements in place. Dispute avoidance processes linked to portfolio level structures are already in place and well established. These are the Senior Officials Programme Board and where Ministerial escalation is required, via the Inter-Ministerial Group – Environment, Fisheries and Rural Affairs (IMG-EFRA).

The detailed arrangements for governance in fisheries, including decision making, dispute avoidance and dispute resolution will also be covered, and existing arrangements will be strengthened, through the development of the UK Fisheries Framework MoU.

Additionally, sitting above the portfolio level arrangements the Joint Ministerial Committee will continue to provide a route for escalation, if required.

In relation to clause 23 and the Secretary of State's power to determine fishing opportunities, I have reached an agreement with the UK Government to set out in the UK Fisheries Framework Memorandum of Understanding (MoU), or an alternative route if we both agree it is more suitable, more detail on the intended use of the power within clause 23 which will include strengthened consultation processes. I have attached a letter from Victoria Prentis MP which re-confirms this commitment.

19. Can you explain why you have chosen to pursue a MoU rather than a bilateral agreement (which has been used to address comparable concerns about the World Trade Organisation provisions in the UK Agriculture Bill)?

20. What further assurance can you provide that the Fisheries MoU will satisfy our concerns about the extent of the Secretary of State's powers, set out in our first report?

I will take these two questions together. Through open and constructive discussions with UK Government, the MoU approach has been discussed at length and we anticipate it will be an appropriate mechanism to set out how we will work together, on this specific matter. However, UK Government has agreed we may consider an alternative route if we both agree it is more suitable.

The fisheries administrations have a strong track record of working closely together to develop fisheries management policy and resolve disputes. In addition to regular ministerial and official level contact, all four fisheries administrations are signatories to the 2012 Concordat on the "Management Arrangements for Fishing Opportunities and Fishing Vessel Licensing in the United Kingdom", which sets out ways of working.

The Secretary of State power in clause 23 remains a red line issue for me because it is paramount the exercise of this power, in future, is done so in a manner which respects the devolution settlement. The MoU is a core element of the UK Fisheries Framework, which all UK fisheries administrations intend to sign up to. Achieving the necessary level of assurance in the MoU in this matter is a priority for me, and my officials are working collaboratively on the development of the MoU to ensure this is achieved. I will be looking to the content of the Agriculture Bill World Trade Organisation Agreement to steer our development of the MoU on clause 23 of the Fisheries Bill, to ensure the arrangements agreed are robust and effective.

21. Can you update us on the outcome of those discussions?

Regarding the distribution of future fishing opportunities, those discussions are ongoing in the context of future relationship negotiations with the EU Commission. My officials are providing the detail of how the outcomes of those negotiations need to reflect the needs of Wales in the rebalancing of the distribution of opportunities, particularly as they exist in the Welsh zone.

22. Can you explain why you are seeking these new powers, and when and how you intend to use them?

In Brexit and Our Seas I sought opinion on how we can make best use of quota available to Wales. Further we commissioned the Wales Centre for Public Policy (WCPP) to look at how we can better utilise fishing opportunities in line with the Well-being of Future Generations (Wales) Act 2015. As such the allocation of fishing opportunities is going to be a key part of our Future Fisheries Policy and I felt it prudent to have a power included in the Bill so our options for policy development were not curtailed.

Therefore, it is beneficial to secure an enabling power now (transitional until such time as I can bring forward a Welsh Fisheries Bill) which is equivalent to the power secured for the Secretary of State, ensuring the most appropriate use of the available fishing opportunities.

The power to sell annual fishing opportunities could generate revenue which could be reinvested into the Welsh fishing industry to help them adapt and take up additional fishing opportunities in the future.

There are no set plans to bring forward a scheme of this kind at this time. The detail of any future arrangements are yet to be determined and I can confirm if we consider bringing in a

scheme using the powers within Schedule 5, a consultation process will occur to inform Welsh Government of the strength of feeling and balance of opinion on such a scheme.

23. Can you clarify whether these powers:

- **will be used to sell Welsh quota to foreign fishing vessels; and**
- **will be limited to the sale of additional quota that may be gained following the UK's withdrawal from the EU?**

I do not anticipate such a scheme, should we bring one forward, would be used to sell Welsh quota to foreign vessels unless there is clear evidence of the benefit derived in Welsh coastal communities. Annual coastal state negotiations will deal with exchanges of quota between the UK and other coastal states and the involvement of my officials will ensure best outcomes for Wales. When considering this power, we expect it to only apply to additional quota. However, this is subject to policy development and consultation on any proposals.

Discard prevention charging schemes

24. Can you explain why you are not seeking powers to establish a discard prevention charging scheme? What do you consider are the disadvantages of a discard prevention charging scheme?

In Wales, our fishing industries are different to England and the Welsh fleet, largely comply with the Landing Obligation as defined in the CFP. A charging scheme implies a level of surveillance monitoring which I do not consider proportionate to the issues currently presented by the inshore Welsh fleet.

This is a devolved area and we will determine our approach to deliver the bycatch objective as we develop policies through our Future Fisheries Policy. These policies will be set out in the JFS. We will need to consider any scheme proposals, alongside other approaches, which may be more appropriate for a largely inshore fleet.

Financial assistance powers

25. Can you explain why the purposes have been widened, and outline how these new purposes may be used in the Welsh context?

The powers have been widened so they match the breadth of what is funded under the European Maritime and Fisheries Fund (EMFF). We support the additional detail and clarity on what areas would be covered by this enabling power. Moving forwards the introduction of a scheme to replace the EMFF is going to be driven by the outcomes of our Future Fisheries Policy and the objectives of the Welsh National Marine Plan. A new scheme will be an enabler in delivering our policy aspirations, so ensuring the power is wide enough is key to achieving this. Any scheme will be subject to affirmative regulations and appropriate levels of consultation and scrutiny.

26. Can you provide details of the time line you are working towards for the development of any new financial assistance scheme?

The UK Environment Secretary has committed that the Government will put in place new, domestic, long-term arrangements to support the UK's fishing industry and marine

environment, through the creation of four new schemes comparable to EMFF to deliver funding for each nation. Welsh Government has been clear Wales must not receive a penny less as a result of exiting the EU.

My officials are working with UK Government and the other devolved administrations to identify scope to maximise the economic growth of the UK's marine sectors. This work will guide policy in how best to support the sustainable growth of the different industry sectors in a strategic and streamlined way.

The devolved administrations will lead on their own schemes and discussions will continue. Welsh Government will continue to develop proposals taking into account the effects of Brexit and COVID-19. These will determine the timeline for consultation on the new scheme.

27. What discussions did you have with the UK Government ahead of the introduction of the 2019-21 Bill on including such a requirement in this latest version of the Bill? What was the outcome of these?

28. Can you outline the rationale for this difference in approach?

I will answer questions 27 and 28 together. My officials continued discussions on the inclusion of a consultation provision, with Defra and the devolved administrations, following the Committees recommendation last year. The key risk identified from those discussions was if we needed to act in an emergency (for example, following a natural disaster or major incident). In such an event, Welsh Ministers would be bound by a consultation provision, whereas other administrations would not be. This could cause a potential disadvantage for Wales and Welsh fishers, where Welsh Ministers could find they are unable to act quickly whilst other administrations can take immediate action.

The current COVID-19 pandemic has reinforced this and clearly shown the need for a level of flexibility to enable the government to act in an emergency. It remains the position, it would be a last resort to introduce a scheme without full and thorough consultation with those people who would benefit/be affected by it. Welsh Government policy is to consult before making all legislation and in all scenarios, the regulations made under schedule 6 would be subject to the affirmative procedure in the Senedd.

For the powers within schedules 5 and 7, we cannot see the same potential need to act in an emergency so are content with the provisions as drafted, which align with the Welsh Government policy on consultation.

Capacity and resources

29. To what extent does the Welsh Government's Marine and Fisheries Division have the staffing capacity to deal with the new outputs and responsibilities that would arise from the 2019-2021 Bill, including:

- **the development of new regulations;**
- **new Fisheries Management Plans;**
- **new inter-governmental arrangements including the JFS, MoU and any dispute resolution arrangements; and**
- **increased devolved responsibility under the Bill for regulating fisheries in the Welsh zone?**

30. Do you expect this to impact on other work areas of the Division?

31. What assessment have you made of the financial implications of the 2019-21 Bill, and can you provide details of these?

I will answer questions 29 – 31 together. This is a UK Bill and given the framework nature of the Bill, an Impact Assessment has not been published by UK Government.

The level of staffing and wider resourcing needs is a matter for the Civil Service, though it is our expectation the direct costs associated with the Bill will be minimal. Indirectly, policy development processes will determine how we use some of the new powers, which will include consideration of options and financial implications. Our Future Fisheries Policy work will inform how we intend to make use of the powers within the Bill.

A Welsh Fisheries Bill

32. Can you explain when and why you decided not to introduce a Welsh Fisheries Bill before the end of the Fifth Assembly?

The timing for introduction of a Welsh Fisheries Bill is dependent on the UK Bill coming into force. The UK Bill will extend the legislative competence of the Senedd in matters relating to fishing, fisheries or fish health. This significant constitutional step forward will enable us to bring forward a comprehensive Fisheries (Wales) Bill, and for the Senedd to legislate for both Wales and the Welsh zone.

It remains my intention to take powers for Welsh Ministers in the UK Fisheries Bill as an interim measure until a comprehensive Welsh Fisheries Bill, covering both Wales and the Welsh zone can be brought forward. Due to dependencies of the timing of the UK Bill and next stages of our Future Fisheries Policy, I cannot be certain on timings and it is certainly not possible to bring a Bill forward before the end of this Assembly, given the delays to the Bill last year and now the COVID-19 pandemic.

We have already begun the policy work to inform the Bill with our consultation Brexit and our Seas. The final content of a Bill would be subject to this further policy work and the discussions we will be having with stakeholders as we develop the work. Until we have had those conversations it is difficult to predict exactly what further powers we would require and when the Bill would be brought forward.

33. Can you outline the rationale for this difference in approach?

- **Do you consider it would be preferable to include a sunset clause in the UK Fisheries Bill 2019-21? If not, why not?**

Following my attendance at the Legislation, Justice and Constitution Committee, I said I would revisit whether the Bill should include sunset provisions in relation to the Welsh provisions.

My position is clear and I see the Welsh provisions, not related to the common framework, as purely transitional subject to the introduction at the appropriate time of a Welsh Fisheries Bill.

We are working to deliver a fit for purpose Future Fisheries Policy and this needs to be done within reasonable timeframes, which enable us to reflect on the outcomes of Brexit and the impacts on our industry. The impacts are now compounded by the COVID-19 crisis. The need to respond to this unprecedented situation, shows why we must keep flexibility in our legal

powers, given the need to respond to changing priorities and to refocus resources accordingly.

At this time, while I am committed to bringing forward a Welsh Fisheries Bill in the next term of the Senedd, I cannot guarantee when it will be included in the Senedd's Legislative Programme, and I do not want to create a risk of losing key powers we may need in the future by including sunset provisions in the UK Bill.

Regards

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Lesley Griffiths AC/AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

CC Mick Antoniw AM, Chair of Legislation, Constitution and Justice Committee



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8 April 2020

Dear Lesley,

Thank you for your letter of 29 January to the former Minister of State about the Fisheries Bill. I am replying as the Minister responsible for this policy area. I apologise for the delay in responding. Defra is currently dealing with high volumes of correspondence due to COVID-19. Thank you for your understanding during this challenging time

It was good to speak to you on 9 March and I thank you for your letter of 11 February in which you confirmed that you would begin the legislative consent process, and for the subsequent Memorandum of Understanding (MoU) laid on 12 February.

I echo your view that the constructive collaboration between officials has led to a Bill that delivers effectively for fishing industries right across the UK. I am grateful for your confirmation that you were content with the approach taken to a UK wide framework in the Bill, including through the fisheries objectives, Joint Fisheries Statement, and fisheries management plans. Again, these provisions have been strengthened by officials working together and I would like to thank them.

You raised two further issues. Firstly, the Government of Wales Act (GoWA) 2006. I am aware that officials in the Welsh Office have shared drafting responsibilities of the section 109 GoWA Order with your officials, and that this work is at an advanced stage. The Government is clear that the consent requirements will not apply should the Assembly decide to remove the concurrent powers in the Fisheries Bill from Ministers of the Crown in future. As such I am assured that this matter is close to resolution and will not require an amendment to the Bill.

Secondly, the determination of fishing opportunities, as officials have discussed, the power set out in clause 23, which allows for the Secretary of State to determine fishing opportunities for the UK, is not a devolved matter. The determination of the UK quota cannot, by its nature, be a devolved function and is therefore a function of the Secretary of State. We agree that the implementation of the UK's international obligations is a devolved matter: managing the share of the UK's fishing opportunities allocated to Welsh Ministers in accordance with the UK's international obligations is of course a matter for Wales.

Clause 24 of the Bill obliges the Secretary of State to consult all Administrations before making or withdrawing a determination under clause 23. That said, I am happy to make clear through the MoU, or another route if we both agree that is more suitable, the commitment you previously received that we will set out the circumstances in which the power under Clause 23 will be exercised, and how consultation provisions could be strengthened beyond those set out in the Bill.

An early opportunity for putting consultation and cooperation into practice will come from the need to work together on defining additional quota, and considering how that might be allocated across the four Administrations. We will also work together on the Joint Fisheries Statement and on Fisheries Management Plans. We should also update the UK Quota Management Rules and this would again provide a good opportunity to collaborate.

I hope that these responses have provided you with the assurances you were seeking, and that you can now seek to recommend consent to the Assembly. I am hopeful that the legislative consent motion can be passed within the passage of the Bill through the House of Lords.

I would like to again thank you and your officials for your engagement this far and look forward to working with you as the Fisheries Bill progresses and on other matters too.

I am copying this letter to the Secretary of State for Wales.

Yours sincerely,



VICTORIA PRENTIS MP