

Cynulliad Cenedlaethol Cymru | National Assembly for Wales
Y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol | External Affairs and
Additional Legislation Committee
Y goblygiadau i Gymru wrth i Brydain adael yr Undeb Ewropeaidd| Implications for
Wales of Britain exiting the European Union
IOB 38
Ymateb gan Gweithgor morol Cyswllt Amgylchedd Cymru
Evidence from Wales Environment Link marine working group

I. What should be the **top priority for Wales** in advance of the UK Government triggering Article 50 (which starts the formal process of exiting the EU)?

1. Recognise the importance of our seas and coasts to the people of Wales

At 15 000 km², Wales' territorial waters nearly double the size of Wales. Their unique geographic location means that these seas host a great wealth of wildlife. In recognition of this, 35% of our territorial area¹ is designated for its nationally and internationally important species and habitats, though many of these sites are not in favourable condition² and there are known gaps in Wales' Marine Protected Area (MPA) network³. The recent publication of Natural Resources Wales' State of Natural Resources Report also highlights that the marine environment around Wales has suffered significant habitat loss in recent years.⁴

Importantly, Welsh seas provide numerous employment opportunities for people living in Wales, including fishing (*ca.* 400 Welsh licensed fishing boats), marine and coastal tourism (estimated to be worth £602 million to the Welsh economy) and shipping (which, in 2014, handled 59 million tonnes of cargo representing 12% of total UK throughput)⁵. Numerous socio-economic and wellbeing benefits, both in Wales and further afield, depend upon the resilience and health of our coastal and marine ecosystems and this must be recognised in on-going EU negotiations.

2. Ensure understanding and awareness of the role of EU and domestic legislation in reversing the decline of Wales's marine natural resources

EU legislation is currently fundamental to marine management and whatever our future relationship with the EU, **the principles and protections enshrined in these pieces of legislation must remain central to the management of Welsh seas**. Not least, this will be necessary if Wales is to achieve the shared UK vision of "*clean, healthy, safe, productive and biologically diverse oceans and seas*"⁶, and to uphold its international commitments to halt and reverse the loss of biodiversity. Domestic legislation contributes a robust approach to enable this, however the reliance on EU legislation to

¹ <https://naturalresources.wales/conservation-biodiversity-and-wildlife/find-protected-areas-of-land-and-seas/marine-protected-areas/?lang=en>

² M. Hatton-Ellis, L. Kay, K. Lindenbaum, G. Wyn, M. Lewis, M. Camplin, A. Winterton, A. Bunker, S. Howard, G. Barter & J. Jones, 2012. MPA Management in Wales 1: Overview of current MPA management in Wales and a summary of new MPA management tools. CCW Marine Science Report 12/06/01, 56pp, CCW, Bangor.

³ http://jncc.defra.gov.uk/pdf/JNCC_NetworkProgressWelshWaters_Final.pdf;

⁴ p. 74, Chapter 3, SoNaRR, <https://naturalresources.wales/media/679417/chapter-3-state-and-trends-final-for-publication.pdf>

⁵ <http://gov.wales/docs/drah/publications/151008-wales-marine-evidence-report-master-october-2015-en.pdf>

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69322/pb3654-marine-policy-statement-110316.pdf

deliver against both domestic and international commitments⁷, and the associated imperative to retain this protection, must not be under-estimated.

The Marine and Coastal Access Act (England and Wales)⁸ provides a toolkit for the delivery of marine planning, marine conservation zones and fisheries management. In the coming months, the Welsh Government will set out its policies for achieving the sustainable management of natural resources, based on the principles of the ecosystem approach and the objective of maintaining and enhancing the resilience of ecosystems and the benefits they provide. It will be crucial to ensure that these principles are adhered to and that this level of ambition sets the bar for future marine management.

3. Maintaining a robust approach to marine management

As the UK starts the process of withdrawal from the EU, Wales must develop a robust approach to marine management and monitoring. In practice this means:

a. Maintaining the ambition behind the EU Marine Strategy Framework Directive (MSFD)

The MSFD is an overarching approach to achieving sustainable European seas (measured as achievement towards 'Good Environmental Status') by 2020⁹. Underpinning this ambition is the commitment to work with our international partners and to act swiftly in preventing further environmental deterioration that would compromise progress towards this goal. In domestic legislation the Directive is transposed by the Marine Strategy Regulations (2010)¹⁰, under which Welsh ministers are the competent authority pertaining to Welsh inshore Waters. The UK and Wales are currently one of the leading nations in the EU for MSFD and the Welsh Government should continue to build on this achievement.

The strength of the MSFD lies in a cohesive and holistic approach to the management of all marine activities towards the achievement of sustainable seas. It sets out clear targets for Wales and identifies the mechanisms for achieving them. Furthermore, it provides a common language for managing shared waters (e.g. the Irish Sea), facilitating trans-national work. **It is essential that Wales and the UK as a whole maintain the ambition behind the MSFD which sets the bar towards ensuring that the marine environment is protected, restored where necessary and resilient.**

b. Maintaining and enhancing the protection for habitats and species provided through the EU Nature Directives, and working towards a well-managed, UK-wide, ecologically coherent network of Marine Protected Areas (MPAs).

⁷ For example the role of European marine sites in contributing to a coherent network of marine protected areas and achieving Aichi target 11; <https://www.cbd.int/sp/targets/>

⁸ http://www.legislation.gov.uk/ukpga/2009/23/pdfs/ukpga_20090023_en.pdf

⁹ http://ec.europa.eu/environment/marine/eu-coast-and-marine-policy/marine-strategy-framework-directive/index_en.htm

¹⁰ http://www.legislation.gov.uk/uksi/2010/1627/pdfs/uksi_20101627_en.pdf

Wales and the UK have committed to the protection and restoration of the marine environment¹¹, notably through the designation of a well-managed and ecologically coherent network of MPAs. *Ca.* 40% of the area of Welsh seas under designation¹² are protected through the EU Nature Directives. These Directives are among the pieces of legislation that may be lost in our withdrawal from the EU. If these protected sites are lost from the network of MPAs around Wales, this would severely impact on the level of protection conferred to species and habitats in Welsh waters, as well as our ability to meet existing national and international commitments. In addition, many of our sites are not currently in a favourable conservation status.

It is absolutely essential that legal protection for marine species, habitats and protected areas is at least as strong as that currently provided by the EU Nature Directives. Part of the EU transition must be to ensure that these laws are fully adopted into domestic legislation and are not redrafted and weakened. Failure to do so would result in further degradation of the marine environment. In addition, Wales must work towards completing and managing the network of MPAs with safeguarded funding to monitor, manage and enforce them.

Moreover, the system by which citizens hold government to account on upholding environmental legislation and its implementation may be lost. Careful consideration will need to be given as to how the role of the European Commission and the European Court of Justice may be undertaken in the future, this is necessary if we are to uphold current levels of protection.

c. Upholding the principles of the reformed Common Fisheries Policy (CFP), placing sustainability and the ecosystem-based approach at the heart of fisheries management

The UK will likely lose the CFP upon exiting the EU, with limited domestic legislation to fill the vacuum. Current EU policy aims to ensure the environmental, social and economic sustainability of European fisheries and also provides for funding to support enforcement, monitoring and the transition towards sustainable fishing by 2020¹³, enabling Wales to meet wider international commitments¹⁴.

A vacuum in fisheries legislation would have severe consequences on the marine environment and the Welsh Government, along with all UK governments, must establish a system of fisheries management prior to exiting the EU. Any new system should reflect current legal requirements and must deliver towards domestic and international commitments to safeguard marine habitats and species, and enable the management of shared resources in co-operation with international partners. Wales must also ensure that new marine management policy, including fisheries, is integrated with the National Natural Resources Policy under the Environment (Wales) Act¹⁵.

¹¹ For example the through the Convention on Biological Diversity; the OSPAR agreement; the Sustainable Development Goals; the European Marine Strategy Framework Directive; and the Marine and Coastal Access Act (2009)

¹² This calculation does not take into account overlapping sites and is based on figures presented in Hatton-Ellis, M *et al.* (2012); for reference, see footnote 3.

¹³ http://ec.europa.eu/fisheries/cfp_en

¹⁴ Such as the United Nations Convention on the Laws of the Sea (UNCLOS)

¹⁵ Part I of the Environment (Wales) Act: <http://www.legislation.gov.uk/anaw/2016/3/contents/enacted>;

In practice, Wales must **apply the precautionary and ecosystem-based approaches to fisheries management**; set catch limits for national and shared stock consistent with achieving maximum sustainable yield by 2020 and that adhere to the best available scientific advice¹⁶; continue with a time bound discard ban; work closely with international partners to manage shared resources; and secure financial support for sustainable and environmentally-friendly initiatives. Another essential element of the ecosystem based approach is the creation and effective management of an ecologically coherent network of MPAs. These will need to be well managed to achieve each MPAs' conservation objectives, with fishing and other maritime activities restricted where they could be damaging. All of this must be underpinned by continual investment in data collection, research, effective monitoring and enforcement in Welsh waters and for Welsh vessels wherever they fish.

d. Delivering on the commitment to a Wales National Marine Plan by 2017 thus ensuring sustainable development in Welsh seas

Our seas are getting busier¹⁷ as marine industries such as renewable energy; ports and shipping; aquaculture and tourism develop off the coast of Wales. The ability to manage this development through an ecosystem based, plan- led approach is conferred to the Welsh Government under the EU Marine Spatial Planning Directive, and the Marine and Coastal Access Act (2009). Planning multi-sectoral development in a **coordinated fashion and in compliance with the ecosystem approach should provide a forward looking framework for achieving sustainable development** and greater certainty for developers, whilst promoting and protecting marine species and habitats.

e. Collaborating across borders with the UK Governments and neighbouring countries to achieve sustainable marine management.

Nature does not recognise political boundaries. We look to the Welsh Government to play a leading role in ensuring all UK countries **work together to maintain high levels of ambition in environmental protection and management**, and do not engage in a race to the bottom. Furthermore, we look to the Welsh and UK governments to ensure Wales plays a leading role in trans-national collaboration to address environmental challenges, in line with the Goal of a globally responsible Wales under the Well-being of Future Generations Act.¹⁸

f. Ensuring that future funding approaches recognise the importance of marine wildlife and the broader value of marine ecosystems

The Environment and Sustainability Committee of the Fourth Assembly stated that a priority area for the Fifth Assembly was the "Prioritisation of the marine environment across the Welsh Government: A new committee will want to ensure that the marine environment is given sufficient priority by the

¹⁶ Notably from the International Council for the Exploration of the Sea:

<http://www.ices.dk/Pages/default.aspx>

¹⁷ http://futuretrends.celticseaspartnership.eu/downloads/R2584a%20Future%20Trends_Final%20Summary%20Report_5Aug2016.pdf

¹⁸ Section 4 of the Wellbeing of Future Generations (Wales) Act

http://www.legislation.gov.uk/anaw/2015/2/pdfs/anaw_20150002_en.pdf

Welsh Government”¹⁹. It is essential that funding is secured for the delivery of marine management priorities in Wales and that this includes enforcement, monitoring and research into the marine environment.

4. Secure Wales’s role in Brexit negotiations

In outlining the context and priorities for marine management in Wales, it’s noticeable that **many of these priorities have not changed since before the June Referendum result**. This is largely because the environment and fisheries management are already devolved to Wales. As such, **Wales must engage as an equal partner to ensure a fair deal from the upcoming negotiations for the UK’s withdrawal from the EU**. We fully support the Welsh Government in this regard as it will be essential for securing the appropriate resources for marine management and an approach which guarantees common, progressive environmental standards and measures, whilst providing the flexibility to accommodate the needs of devolution.

II. Can you provide examples of where the UK’s proposed approach to transferring the *acquis communautaire* (the body of European law), through the proposed Great Repeal Bill, into domestic law might have particular implications for Wales

It remains unclear how the proposed Great Repeal Bill will interact with devolved powers in relation to the environment. As stated previously, current EU nature protection legislation must not be re-drafted and weakened if Wales is to protect, restore and enhance its marine environment. In addition, this would provide certainty for marine businesses. Where new legislation is likely to be necessary (e.g. fisheries) this must maintain and build on current principles and levels of ambition. Trans-national collaboration will be essential to secure sustainable management of our shared seas and funding must be secured for its delivery.

¹⁹ Page 8: <http://www.assembly.wales/laid%20documents/cr-ld10637/cr-ld10637-e.pdf>