

Y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig | Climate Change,  
Environment and Rural Affairs Committee

Memorandwm Cydsyniad Deddfwriaethol ar Fil Pysgodfeydd y DU | Legislative  
Consent Memorandum on the UK Fisheries Bill

Ymateb gan : New Economics Foundation

Evidence from : New Economics Foundation

## Summary

1. As an enabling bill, the Fisheries Bill serves an important function in transposing existing legislation, but many of the important decisions over the future of fisheries in the UK are still to be made and in an increasing tight time frame.
2. The legislative framework of the Fisheries Bill is appropriate and concerns of a potential 'power grab' by Westminster appear to be addressed. This approach leaves much fisheries management up to the fisheries administrations including the Welsh Government, which comes with its own concern that the opportunities for new and innovative management approaches may not be seized.
3. The health of the marine ecosystem, on which all fishing activity is based, is front and centre in the Bill's objectives but key legal provisions are missing from the Fisheries Bill to ensure that these objectives are delivered.
4. The allocation of fishing opportunities takes a very status quo approach in the Fisheries Bill. Our research for the Wales Centre for Public Policy, as well as the excitement generated by the current spotlight on fisheries, is clear that a more transformative approach is required. There is also the significant issue that with the 2012 Concordat continuing to operate through the Fisheries Bill, Wales will continue to receive a small share of UK fishing opportunities.
5. Inshore fisheries management – the predominant form of management for the large numbers of small shellfish boats that characterise fisheries in Wales – should be empowered through the Fisheries Bill to really take control of fisheries management out to 12 nautical miles. A rethink is also required within Wales as to how inshore fisheries management should evolve in future fisheries legislation.

## Background

6. At the New Economics Foundation (NEF) we have been working on European fisheries for the past decade. Our work in the UK has included two recent reports on the impact of Brexit on Welsh fisheries, a report for the Wales Centre for Public Policy, *Implications of Brexit for fishing opportunities for Wales*, and a report produced with Miller Research, *Welsh Seafood Sector Brexit Readiness Research*.
7. Whereas environmental policies are often pitted against economic outcomes, our research has demonstrated that sustainable fisheries management makes economic sense. As fish populations have diminished in size due to overexploitation, decreasing fishing pressure would allow fish stocks to grow in size. It is both counterintuitive but also immediately evident that sustainable management, by allowing fish populations to grow in size, means that catches can increase from their current levels. Both environmental and economic objectives point in the same direction of change.
8. This approach to reducing fishing pressure in order to generate largest future catches has been slowly implemented in EU fisheries through recent reforms of the Common Fisheries Policy (CFP). Over the past twenty years fishing pressure has been decreasing, and in response, fish

stocks have been growing for the past ten, fishing limits (e.g. quota) are now increasing, and for the past five years revenues, profits, and investment are all increasing year-on-year.

9. Just as twentieth century fisheries management was a story of unsustainable fisheries pressure damaging fish stocks and economic opportunities, twenty-first century fisheries management in the EU has seen a reversal of this trend. The sustainability of fish stocks is recovering and with it the opportunities for sustainable economic opportunities. This story of environmental and economic improvement is different to the one usually told about UK fisheries during the Brexit referendum campaign, but the distinction is an important one. Profits in the UK fishing fleet are at a record high while the number of vessels and fishers are at a record low. In this sense, questions about future fisheries management in the UK quickly move to larger debates about how we think about our economy.
10. This evidence submission will add a perspective from new economic thinking to four main areas of relevance to the Fisheries Bill: the legislative framework, sustainability provisions, the allocation of fishing opportunities, and inshore fisheries management.

### **Legislative framework and enabling powers for Wales**

11. The Fisheries Bill is a piece of framework legislation, providing tools for fisheries management rather than detailed policies. The objectives that are set out are broadly good ones, although there is no explicit recognition in these objectives that fisheries are a public asset and as such should be managed for the UK public in both the present and the future as a public trust.
12. The Fisheries Bill aims to create a common framework for managing fisheries across the fisheries administrations, but it is not yet clear how the Welsh Government and the other fisheries administrations will shape that process (e.g. consultation, co-design, mutual agreement).
13. In the lead up to the First reading of the Fisheries Bill, there were concerns that there may be a power grab by Westminster. As we understand the issue this has not in fact occurred and broad powers are provided to the fisheries administrations. This has even occurred in surprising instances, such as the requirement that fishing opportunities are allocated in a transparent and objective manner (which only applies to England).
14. This empowerment gives rise to the opposite concern, however, that the Welsh Government is not in a position to seize on the opportunities provided. Historically the Welsh Government has not made major developments in fisheries policy and recently changes to inshore fisheries management are a worrying sign that future fisheries management will not see Welsh fishers really be taking control of their future.
15. There is also the issue of the Welsh share of UK fishing opportunities. At present this is governed through the 2012 Concordat and Wales receives a very small share of the UK total. At present through the Fisheries Bill this would be set to continue. As detailed in our report for the Wales Centre for Public Policy, *Implications of Brexit for fishing opportunities for Wales*, the consequence is that any gain in fishing opportunities from the EU would accrue mostly to English and Scottish fleets and landing to Wales could actually decrease (as Belgian fleets currently land in Wales).

### **Sustainability provisions**

16. Ecosystem health and sustainable resource use are appropriately front and centre in the Fisheries Bill's objectives. However, the actual legal provisions of the Fisheries Bill contain some important omissions that are cause for concern. One of these omissions is the removal of the objective in the EU's Common Fisheries Policy to end overfishing (reduce fishing pressure to levels that can produce the maximum sustainable yield) by 2020 at the latest. As this was

one of the landmark inclusions in the 2013 reform of the Common Fisheries Policy, its absence from the Fisheries Bill is glaring.

17. There are three potential reasons for this omission. First, given that 2020 is just one year away, this deadline may simply be assumed as the UK's position. However this is not a reason for failing to make a legal commitment, especially for something that is such an important element of the most recent CFP reform and something that is quantifiable.
18. The second potential reason for this MSY omission is that it may be seen to bind the hands of the UK Government in international quota negotiations. This is true not just for the MSY 2020 deadline but also beyond. The thinking is that if the UK is committed to MSY then the other actors in the negotiation could raise their fishing pressure and force the UK into a position where it must reduce its fishing pressure below its own share of the stock based on an MSY assessment in order to ensure that the stock is kept at MSY levels. But this dynamic of international negotiations is not new. The EU's commitment to MSY is there in annual negotiations with third countries including Norway, Iceland, the Faroe Islands, and Russia. Despite the fact that the EU cannot force these third countries to apply an MSY framework, the EU has a clearly defined MSY objective. What is required at least as a minimum is a publishing of how the UK will fish to MSY within its own considerations of stock sharing so that there is a transparent explanation of how the UK is holding to MSY despite the complications of international agreements.
19. The third and final reason is that the government is not committed to MSY. While this is not assumed, it is important to note that some voices in the fishing industry have resisted the MSY framework. One of the arguments used is that the MSY framework is not applicable to mixed fisheries. This is a misunderstanding of the MSY framework and assumes that the objective is to use MSY as a target rather than as a limit. While it is true that MSY cannot be fished for multiple species in a mixed fishery simultaneously, this is not an issue if MSY is properly considered as a limit. Some species in the mixed fishery will be fished benefit MSY reference points in order to protect the integrity of the whole fishery. Clearly when environmental and conservation groups advocate MSY their objective is not in fact to maximize the tonnage extracted from the ecosystem (as MSY is based on) but simply to bring fishing pressure down to at the very most this level. Within this space defined by MSY reference points there is legitimate debate about the optimal rate of extraction, but it should not be assumed that the optimum is always the maximum, especially in mixed fisheries.
20. The Fisheries Bill should be amended to include a duty to set fishing opportunities in accordance with MSY by 2020 and beyond.

### **The allocation of fishing opportunities**

21. Whereas the issue we take with sustainability provisions is the absence of commitments that are currently included in Article 2 of the EU's Common Fisheries Policy (holding and maintaining the 2020 deadline to achieve MSY for all commercial fish stocks), the issue we take with respect to the allocation of fishing opportunities is that the text of the ineffectual Article 17 is directly transposed into English law. To directly transpose Article 17 of the CFP with all the critiques that have been levelled is just as surprising as the Article 2 omission.
22. At the time of its inclusion in the CFP, Article 17 was intended to have a transformative effect on EU fisheries. Across the EU, Member States allocate fishing opportunities almost entirely based on track records. By shifting to a criteria-based approach, a more active approach to fisheries management would shape the industry around delivering public benefits from quota. Our 2011 report, *Value slipping through the net: Managing fish stocks for public benefit*, contributed to this shift in thinking by illustrating how different fishing techniques for cod – gillnets and

trawlers – generate (and erode) value for society in the form of GVA, employment, discards, subsidies, and carbon emissions.

23. This transformative effect did not materialise, however. To date, Ireland is the only EU Member State that sets aside quota for fishing vessels in a criteria-based approach and explains how it accords with Article 17. The UK fisheries administrations have not seized the opportunity. The only major change to the allocation of fishing opportunities, the reallocation of unused fishing quota by Defra to the under-10m pool, occurred in 2012 before the CFP reform and Article 17.
24. The key reason for this lack of Member State uptake is the fact that as written, Article 17 is only binding that criteria must be transparent and objective. Most Member States, including the UK fisheries administration thus continue to allocate fishing opportunities based on historical track records – one possible objective criterion. By merely transposing the existing wording of Article 17 there is little doubt that this text will continue to have no bearing on the actual functioning of UK fisheries management.
25. Curiously this obligation in the Fisheries Bill only applies to English fisheries. While different fisheries administration can apply, with good reason, their own criteria for the allocation of fishing opportunities, the drafting in the Fisheries Bill is a poor combination of open commitments that only apply to English fisheries.
26. It is possible that changes to the allocation of fishing quota will occur at a later stage, in particular with any fishing opportunities that are gained as a result of Brexit. While this is perhaps the easy approach to reforming the allocation of fishing opportunities and avoids confrontation (i.e. not ‘robbing Peter to pay Paul’ but rather ‘robbing Pierre to pay Paul’), there are major drawbacks to relying on extra quota post-Brexit.
27. First and foremost, there is no certainty when, if ever, these extra fishing opportunities will materialise. The recent developments with the Withdrawal Agreement only confirm this and the fears of this fishing industry.
28. Secondly, there is a mismatch between the fishing opportunities that the UK may gain in large quantities under a zonal attachment approach (e.g. sandeel, Norway pout, herring) and quota that is needed for inshore fisheries (e.g. haddock, some cod stocks). The largest gains are for the offshore pelagic fleets.
29. However, the most significant problem with relying on these reallocations at a later stage, is that it cements the idea that existing quota is property in the hands of quota holders. By continuing to allocate quota in the same method to the same quota holders, this has led to the development of a “reasonable expectation” for this to continue and without any scrutiny the “accidental privatisation of marine life”. Brexit, and in particular the Fisheries Bill, represents the best chance to give notice (e.g seven years) that quota will be renationalised and allocated in a different method. The Faroes provide a recent model for how this overhaul of existing holdings could take place. All future quota should be allocated as a time-bound lease. Denmark provides an example of this model, although the period of validity was recently extended during a reform that shifted more quota to a segment of small-scale, low-impact fishers.
30. The Fisheries Bill should be amended to include a mandate that environmental and social criteria are used in all fisheries administrations for the allocation of future opportunities (both existing and new), while the specific criteria within these domains can remain a devolved competence. Our report for the Wales Centre for Public Policy, *Implications of Brexit for fishing opportunities for Wales*, explores specific approaches and criteria that could be used to allocate fishing opportunities in Wales.

### **Inshore fisheries management**

31. Absent from the Fisheries Bill is the empowerment of inshore fisheries bodies. In England, these bodies, the Inshore Fisheries Conservation Authorities (IFCAs) have been progressing in remit and competences. In Wales the inshore fisheries bodies (Inshore Fisheries Groups - IFGs) have been disbanded and there has been a centralisation of management via the Welsh Marine Fisheries Advisory Group (WMFAG). In future fisheries legislation this absence of inshore fisheries bodies in Wales should be corrected.
32. To empower inshore fisheries management in future fisheries legislation, representative fishing organisations should be invited to re-join regional IFGs and their cumulative geographical remit should be extended out to 12 nautical miles. This matches NEF proposals for England, where the adaptive co-management model being developed through IFCAs holds promise for the management of the 12nM territorial waters, whether for MPAs, shellfish management or the development of recreational angling management and development strategies.
33. Furthermore, future modes of cost recovery (which are certainly necessary in all UK fisheries in recognition both of the costs of fisheries management, profits being made off a public resource, and environmental externalities that are generated) should be designed with a recognition that these inshore bodies will continue to grow as a primary point of management.
34. The Fisheries Bill should be amended to extend the geographical remit of the Inshore Fisheries and Conservation Authorities (IFCAs) from the current 6 miles to 12, to allow for local solutions to unique environmental challenges along our coastline.

### **Conclusion**

35. As a framework for fisheries legislation, the Fisheries Bill provides a useful basis for future policy and the provisions in the Bill enable the Welsh Minister to introduce new fisheries legislation post-Brexit. In our view there are no serious issues with the Fisheries Bill that would challenge or prevent the Minister from carrying out this function. However, we have some concerns with the Fisheries Bill in the areas of sustainability provisions, the allocation of fishing opportunities, and inshore fisheries management. We have suggested amendments in these areas to ensure that the future of fisheries around the UK is fair and sustainable.
36. We look forward to discussing the issues raised in this submission with the Climate Change, Environment and Rural Affairs Committee on 16 January 2019.