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House of Lords
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My Lords

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My Lords,

Report Stage: Fisheries Bill

I am grateful to noble Lords for their contributions to the debates at Report Stage of the Fisheries Bill on 22 and 24 June. I said that I would write on several matters raised.

Fisheries Management Plans

Baroness Bakewell of Hardington Mandeville asked for more detail as to the operation and enforcement of fisheries management plans (FMPs) as a UK tool to manage fishing activity in UK waters. We will work closely with industry and other stakeholders in developing the plans. The plans will set out policies that are binding on the fisheries administrations which are parties to them. We are unlikely to have a “one-size fits all” approach to the plans, as initially we will want to pilot approaches, but we also want to learn lessons from the inflexible Common Fisheries Policy and have plans that suit the fishery or fisheries.

For stocks shared with other coastal states, we will continue to negotiate international agreements on the appropriate levels of a Total Allowable Catch and respective shares. Where appropriate we will press for measures from our FMPs to be adopted more widely. This could be for example through long-term management strategies adopted by more than one State. Where such multilateral plans are used, their implementation domestically will be at least in part via our own FMPs.

We will need to consider how we adapt existing control (e.g. licences, technical regulations and enforcement) measures to the measures set out in the FMPs.

Fishermen from the Philippines

Baroness Ritchie of Downpatrick asked for an update on fishermen from the Philippines, given their importance to the Northern Irish catching sector. Immigration policy is of course a matter for the Home Office.

In future, the points-based system will include a route for skilled workers, both EU and non-EU citizens, who meet the requirements of - a job offer from an approved sponsor, a job offer at the appropriate skills level (RQF3 or above), English language skills and criminality check. There will also be a salary requirement. The government will not introduce a general low-skilled or temporary work route. Immigration must be considered alongside investment in and development of the UK's domestic labour force. Defra is working closely with the Home Office to ensure that Defra's interests are represented in the new immigration system.

We recognise the importance of the workforce to the catching sector. Action is being taken to make fishing and the seafood sector more attractive to young people in the longer term. Broader skills and training are devolved but I will give an example of action being taken in England. Defra is working with Seafood 2040 and the agri-food sector to raise awareness of the career opportunities within fisheries, agriculture and food to attract domestic workers and is exploring innovation and automation in meeting future labour demands.

As I noted during the debate, we must also recognise that the industry can and does take action too. For instance, the Cornish Fish Producer's Organisation with the Institute of Apprenticeships and Technical Education are developing a Commercial Fishing Apprenticeship, and this is something which is currently being consulted on.

Training and licensing of fishing crews

Baroness Ritchie of Downpatrick also asked for assurances about developing training schools.

Currently new entrants to the UK fishing industry are required by law to complete four 1-day basic safety training courses. This training is provided by Seafish and its UK-wide network of Approved Training Providers on behalf of the Maritime and Coastguard Agency. On top of this training, Seafish has developed a voluntary 3-week Introduction to Commercial

Fishing which provides new entrants with additional knowledge to better prepare them for work in this most dangerous industry.

In addition various longer term training schemes are available across the UK. For instance, Seafish has (through its membership of the Maritime Skills Alliance) created a (minimum) 12-month apprenticeship in sea fishing; this qualification is currently delivered in Shetland. A 12-week Trainee Deckhand course is delivered in Peterhead. In England, a Diploma in Sea Fishing is being delivered in Whitby.

Dispensation of fishing quota

Baroness Worthington asked as to the granting of quota and property rights on behalf of the Crown. The Secretary of State, after consultation with the Devolved Administrations, decides how the UK's fishing opportunities should be divided between the four UK fisheries administrations. Each administration then decides how its fishing opportunities should be distributed to their respective fishing industries.

The functions of the Secretary of State and of the Devolved Administrations are set out in UK Quota Management Rules and Quota Management Rules for each administration. The primary means of distributing quota is based on Fixed Quota Allocations (FQAs), which represent a share of whatever quota for a specific stock is made available in a particular year.

The FQA system was the subject of judicial review in 2013 following the decision of the Secretary of State to allocate unused FQAs from Producer Organisations to the under 10 metre fleet. The High Court held (*R (UK Association of Fish Producer Organisations) v SoS for EFRA [2013] EWHC 1959 (Admin)*) that FQAs are possessions, protected by Article 1, Protocol 1 of the European Convention on Human Rights (which restricts the deprivation and interference with property rights). The High Court held that Producer Organisations and their members “have no proprietary interest in the fishing stock itself” and that FQAs “give no rights to any specific amount of fishing stock in advance of the annual Ministerial decisions on quota”. However, as FQAs can be transferred and are traded and used as security, they are possessions. This does not mean that FQAs give permanent rights: the claimant in the case recognised that the Secretary of State could adopt a different policy or reduce the amount of quota available. The government's policy is to maintain the FQA system in relation to current quota amounts to provide continued certainty to industry.

FQA units are not the only mechanism for allocating quota. Others include an underpinning mechanism which guarantees a minimum share for under 10 metre vessels in certain stocks. There is also a “reserve quota”, which is allocated on a stock by stock basis, some by FQA unit and some in different ways. The UK government consulted on this in England from January to March this year.

It is clear that the Government and the Devolved Administrations could move away from the use of FQA units should they wish to do so. Indeed, the case referred to above shows this. But such a move must follow due process. In any event, it is government policy to continue using the FQA system in allocating our existing share of quota. There is no intention to move away from the FQA system. The government is however working with industry and other stakeholders to develop a new method for allocating any additional quota we secure following the Transition Period and the Bill provides powers for the sale of rights to use such quota by the Secretary of State in England and the Welsh Ministers in Wales.

Views of the Northern Irish Devolved Administration on the amendment to make REM mandatory

Lord Randall asked what the views of the Devolved Administrations were on the mandatory adoption of REM. The views of the Welsh and Scottish Government were shared in the debate but I would like to elaborate further on the views from DAERA (the Northern Ireland Department).

The view of DAERA is that REM is a potentially valuable tool for fisheries management and control and enforcement, but as with other such tools it should be used on a risk based approach according to local circumstances and fisheries. Fisheries and fleets vary across the UK and the management and control enforcement needs also vary. Consistent with the views of all the Administrations, DAERA’s view is that it would be inappropriate in the Fisheries Bill to impose the same requirements for the use of REM on all parts of the UK.

All of the Administrations believe they must have the ability to tailor management and control enforcement measures to the particular risks of the fisheries for which they have responsibility. It is also vital that any measures are only introduced after full consultation with those that may be impacted by them.

Extent of foreign ownership of UK fishing quota

As I have been clear in debates, the fish in UK waters are public assets and cannot be owned by any person, regardless of their nationality. However, Lord Hain asked about the veracity of a Sunday Times article of 28 June 2020 on the degree of foreign ownership of UK quota. I am in communication with Lord Hain on this matter as I have been unable to track down this article.

The register of FQA unit holders is publicly available¹. Defra does not hold, as common practice, statistics on the nationality of the owners of UK vessels that land quota. – This may be significantly different from those that hold the fixed quota allocation units, as quota can be leased and traded throughout the year. That is, in many cases quotas are caught by different vessels by the end of the year, compared to those which received it at the start of the year through FQA holdings.

The UK welcomes inward investment across all areas, including fishing, and does not seek to impose arbitrary limits on ownership, or to impinge on the ability of vessel owners to make a commercial decision to sell their licence. For this reason, the ‘economic link’ condition described below applies to all UK-registered vessels, regardless of whether they are UK owned.

Regardless of the nationality of the owner of a UK registered boat, as I have made clear in previous debates, the government’s ‘economic link’ policy ensures that all vessels fishing against UK quota must demonstrate a link to the UK economy. Licence conditions require that vessels can do so by:

- Landing at least 50% of their quota stock catch into UK ports (the vast majority of UK vessels do this); or
- Employing a crew at least 50% of whom are normally resident in the UK; or
- Making at least 50% of their operating expenditure in UK coastal areas; or
- Demonstrating an economic link in another way, usually by donating quota to the under 10m pool that is fished against by inshore vessels.

The government’s policy is that we will take the opportunity provided by leaving the Common Fisheries Policy to review the impact and effectiveness of the economic link condition and

¹ <https://www.fqaregister.service.gov.uk>

are considering options for reform of the licence condition in England. We are intending to consult on proposals later this year.

Definition of UK fishing boats

Lord Cameron of Dillington asked whether the definition of UK fishing boats had changed. At the time I provided assurance that the definitions of UK fishing boat and British fishing boats have remained the same in this and previous versions of the Bill, but I would like to provide fuller detail in this letter. The term “British-owned” is defined in clause 48 (now clause 51) as being a person who is for the purposes of the Merchant Shipping Act 1995 a person qualified to own a British ship. Such a person includes:

- British citizens or Nationals of an EU Member State exercising their right of establishment within the UK;
- Bodies corporate incorporated in an EU Member State with a place of business in the UK; and
- European Economic Interest Groupings registered in the UK.

Furthermore, the legal and beneficial title of a British fishing boat must be vested wholly in one or more person qualified to be owners of a British fishing vessel and it must be managed, and its operations controlled and directed, from within the UK.

UK Membership of ICES

Baroness McIntosh asked about the Government’s ongoing commitment to ICES, and although I responded in the debate I also committed to write on the matter. The UK has been an independent member of ICES since it was established in 1902 and will continue playing a strong role in it in the future. We will continue setting a gold standard for sustainable fishing and protection of the marine environment around the world after the Transition Period ends.

The UK will continue to collect marine and fisheries data to inform ICES research and stock assessments. The UK will establish its own agreement (Memorandum of Understanding - MoU) with ICES for advice and services which will come into effect after the Transition Period ends. Funding of this agreement with ICES will be a matter for the forthcoming Spending Review, but we have been clear that continuation of funding is a critical spending element of our future fisheries policies.

I hope noble Lords find this additional information helpful. I am copying this letter to all noble Lords who took part in the debates and I shall arrange for copies of this letter to be placed into the libraries of both Houses.

Yours ever,
John