



The Scottish Parliament
Pàrlamaid na h-Alba

Rural Affairs, Islands and Natural Environment Committee

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Cabinet Secretary for Rural Affairs
and Islands

c/o Clerk to the Committee
The Scottish Parliament
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By email only

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Dear Cabinet Secretary,

Consultation draft of the Joint Fisheries Statement

The Rural Affairs, Islands and Natural Environment Committee welcomes the opportunity to respond to the Scottish Government as part of the specified scrutiny period on the draft Joint Fisheries Statement (JFS). The Committee notes that other legislatures have responded to their respective administration in similar terms.

To inform the committee's contribution, the Committee launched a targeted call for views¹ and held an evidence session on 23 March 2022², hearing from key stakeholders and the Scottish Government.

The Committee's contribution draws heavily from this evidence and broadly follows the structure of the consultation draft JFS. However, this letter is not intended to be a comprehensive assessment of the statement but instead highlights some key areas discussed in evidence that the Committee would like to draw to the Cabinet Secretary's attention.

UK management of fisheries post-EU exit

As we move away from the common fisheries policy, the Joint Fisheries Statement (JFS) and wider UK Fisheries Management and Support Framework (the fisheries framework) will play a central role in supporting the management of UK fisheries. As you highlighted in your opening remarks, the JFS and fisheries framework help to explain how, in future years, fisheries will be managed across the UK in a way that

¹ Written submissions -

https://yourviews.parliament.scot/raine/thejointfisheriesstatement/consult_view/

² Meeting 23 March 2022, Official Report - <https://www.parliament.scot/chamber-and-committees/official-report/what-was-said-in-parliament/RAINE-23-03-2022?meeting=13671>

allows the UK as a whole to share common goals on fisheries management and marine protection while, at the same time, protecting the Scottish Government's devolved powers in the area as it decides its approach to the goals and the implementation of policy.

In terms of fisheries management within the UK post-EU exit, the Committee was encouraged by your comments regarding the constructive way in which the consultation draft JFS has been developed. In particular, your conclusion that this was a "positive piece of work" and that devolved powers were "respected and adhered to".

Our Shared Ambition

As the draft JFS states, the shared ambition is to deliver world class, sustainable management of our sea fisheries and marine aquaculture across the UK with UK's fisheries policy authorities (FPA) working together to support a vibrant, profitable, and sustainable fishing industry, underpinned by a healthy marine environment that is resilient to climate change.

Some stakeholders told us that the JFS offers an opportunity to move away from the constraints of the common fisheries policy (CFP) and take a more innovative approach. Others cited the twin challenges posed by the climate and nature emergencies and called for a radical change to fisheries management. Some witnesses raised serious concerns about the level of ambition expressed in the statement.

The Scottish Fisherman's Federation (SFF), for example, notes in its written evidence that-

"there are several references to being "world class" and "world leading", but from undefined baselines and with no detail or clarity about what these mean or how to achieve them. Other elements clearly lack any ambition for change."

The Committee notes and agrees with your comments about the importance of the overall high-level ambitions and that "it is vital that it is up to each Administration to determine and set out how the policy objectives will be achieved". **The Committee anticipates future work in scrutinising the policies developed by the Scottish Government to ensure they deliver on the shared ambition set out in the JFS.**

The Fisheries Objectives

The principal concern raised by respondents in relation to this part of the consultation draft JFS was a lack of detail around the interpretation of the objectives and how they would be achieved.

More specifically, stakeholders raised concerns about the lack of specific, time-bound and measurable commitments to achieve the objectives. For example, the Sustainable Inshore Fisheries Trust (SIFT) stated in oral evidence that "a lack of ambition can be seen in the lack of time-bound commitments, the aspirational tone of a lot of the document and the fact that it is, at times, heavily caveated" and that, although some of the commitments were welcome, "they are phrased in such a way

as to make it clear that there is no binding commitment to move in the direction that is identified in the objectives”.

For example, section 4.2.16.5 states that the fisheries policy authorities will work together to support the health, safety, wellbeing, and in particular, safety at sea of all those associated with the seafood sector. While this objective is laudable, the Committee would like to see more concrete proposals detailing how the authorities will work to achieve these aims to ensure the safety of Scottish fishers.

The Committee notes your comments that the JFS sets out the high-level policy ambitions and that the JFS would not be an appropriate vehicle for detailing how the objectives would be realised. We also note your comments that the future catching policy and remote electronic monitoring consultations will be key delivery mechanisms to achieve the fisheries objectives.

Following the public consultations on these policies, the Committee recommends the Scottish Government specifies how these policies will contribute to achieving all the fisheries objectives.

Stakeholders also discussed how the JFS would balance the need for different fisheries Administrations to have the flexibility to pursue policies in particular areas while also providing a degree of consistency to support the statement's overall objectives. The Committee notes your opening comments regarding the MOU, which allows Administrations to approach each issue independently by allowing, for example, changes to quota management to be made without the entire MOU needing to be reopened.

The Committee would however appreciate further information about how the Scottish Government intends to balance both the need for coherence where coherence is necessary and flexibility where that is desirable.

Delivering the JFS

Science and evidence

Section 3.2 of the consultation draft JFS states:

“good science and a robust evidence base that commands trust and confidence will be essential to achieve the fisheries objectives in the Act”.

Some respondents to the Committee’s call for views called for the JFS to set out how UK fisheries authorities will effectively collect and monitor data on target species and bycatch to provide a more accurate picture of the impact UK fisheries are having on the marine environment, allowing for better management and improved transparency and accountability across the UK fleet.

The SFF, called for the JFS to commit to improving scientific evidence and modelling for fisheries management and catch advice, stating that “FPAs should be committing to investing in improving the knowledge and evidence base” and to “establish clear frameworks for how the FPAs can work with industry on robust, repeatable science based on verifiable protocols... [Which could include] a ‘sense-check’ on science, e.g. from an independent panel.”

Stakeholders also raised concerns about how resources were allocated to inform scientific decision making, highlighting duplication in the work carried out by Marine Scotland and NatureScot. Fishing industry stakeholders also expressed a willingness to provide expertise and to work with the Scottish Government to improve science.

In evidence, the Cabinet Secretary acknowledged that concerns regarding the quality and availability of scientific evidence and monitoring were key issues in recent decisions by the Scottish Government on seasonal Clyde cod spawning closures. The Committee considers that this illustrates the need to improve scientific research, data collection and monitoring to support fisheries management. **The Committee believes that collaboration with all stakeholders on improving science is key to ensuring trust in supporting future decisions on fisheries management.**

Participatory decision-making

Section 3.6 of the draft JFS sets out a future vision “that industry should take a greater, shared responsibility for sustainably managing fisheries, while making a greater contribution towards the costs”. Examples include developing new management practices, contributing to fisheries science, being more actively engaged in fisheries management decisions and co-designing future policy.

Some stakeholders questioned whether the co-management principles would operate effectively in practice, highlighting existing concerns around the levels of engagement in co-management processes. The SFF noted in its oral evidence-
“Inclusivity and involvement is a positive aspiration, but it is really important that we include and involve the right people, who have the necessary understanding and knowledge to become involved in co-designing and co-managing things.”

Stakeholders also called for a joined-up approach to co-management to avoid decision making being siloed, noting that fisheries policies should be developed with all relevant voices around the table.

The Committee recognises your admission that the Scottish Government’s approach to the Clyde cod closure was “far from ideal” and you sought to reassure us that the Scottish Government has learnt lessons from this as you recognise “co-management is vital” and “it is critical that we ensure that we hear those voices” [of those people whose lives and livelihoods are directly impacted].

When asked about ministerial accountability of the ambition of meaningful co-management, you went on to highlight the requirements of the Fisheries Act 2020 which requires the fisheries policy authorities to publish a report every six years setting out how the JFS and fisheries management plans have been implemented and to what extent they have achieved the policy objectives. You indicated this would “show how we have achieved the policy ambitions that are in the JFS”.

The Committee notes that the Scottish Government’s Future Fisheries Management Strategy 2020-30 makes a commitment to co-management including specific commitments to “strengthen these arrangements, with a greater focus on strategic decision making” to “promote involvement across all genders and equalities groups

in a positive and inclusive way” and “strengthening the role of the Regional Inshore Fisheries Groups (RIFGs)”.

Delivering sustainable management of fisheries

Determining fishing opportunities through international negotiations

The consultation draft JFS sets out several aims for how the UK will approach international fisheries negotiations stating that “through fisheries negotiations, the UK will seek to achieve, or contribute to the achievement of, the fisheries objectives in the Act”.

In his written evidence, Professor James Harrison drew attention to paragraph 4.2.1.5 of the consultation draft JFS, which states that, “For stocks found solely within UK waters and not subject to agreement with other coastal States, the fishing opportunities will be determined by the UK”.

Professor Harrison points out that section 23(2) of the Fisheries Act 2020 provides that any determination of fishing opportunities by the Secretary of State on behalf of the whole UK “may be made only for the purpose of complying with an international obligation of the United Kingdom to determine the fishing opportunities of the United Kingdom”. Professor Harrison goes on to suggest that “if no international obligation exists, it would appear that the Secretary of State cannot act unilaterally and the consent of the devolved administrations may be needed for the determining a fishing opportunity insofar as the determination falls within the competence of a devolved administration”.

When asked about this point in oral evidence, you answered that you do not anticipate there being any issues or concerns arising on this point. You indicated the Scottish Government takes the lead on building the evidence and in setting the total allowable catch and this information is then passed to the Secretary of State for determination. You told us this measure “is more about efficiency” and highlighted the memorandum of understanding which “determines how we would address any potential conflicts or issues”.

Determining fishing opportunities

Section 4 of the JFS also sets out the apportionment method of fishing opportunities and the distribution of fishing opportunities within each fisheries policy authority. Section 4.2.15.15 states that “where appropriate the fisheries policy authorities will support opportunities to diversify”.

Stakeholders called for a flexible approach, which would allow fishing opportunities to evolve, as the Communities Inshore Fisheries Alliance (CIFA) highlights in its written submission to the Committee-

“we would ideally like to see fair inclusion regardless of scale of fishing interests, and a recognition that some coastal areas may wish to change and develop their current operations through diversification into new stocks or a changing of scale of fishing operations.”

In evidence, you suggested it would not be appropriate to include explicit provisions in the JFS regarding the allocation of quota and fisheries opportunities as this should be conducted at a devolved level by the fisheries administrations.

The Future Fisheries Management Strategy 2020-2030 states that the Scottish Government will “secure the resilience of the fishing industry, working with stakeholders to strengthen links to local and global markets, supporting diversification and exploring new fishing opportunities”.

Displacement

Section 4.2.8 of the draft JFS states that the FPAs “will work with sea users to identify and address displacement issues from management measures and other spatial uses including offshore wind farms.”

Spatial squeeze of fishers through displacement from activities such as offshore renewables, aquaculture, subsea cables and conservation measures was discussed in evidence. Stakeholders suggested the JFS should give more recognition to understanding the cumulative impacts on the fishing industry and the safety of fishers. For example, the Clyde Fisherman’s Association (CFA) highlighted “issues of displacement with developments such as offshore renewables and cables and displacement due to environmental closures” with the consequence that, “at the moment, fishermen are mainly responding and firefighting these issues”.

Stakeholders also highlighted the need to take a more inclusive approach to fisheries management planning, taking into account local fisheries knowledge to avoid fishers having to habitually object to planning proposals, something which they highlight takes up a considerable amount of their time.

You highlighted the Scottish Government’s commitments on a blue economy vision which will “recognise the breadth of sectors” and ensure “that all the strategies and policies across all those areas are aligned and take cognisance of each other, as much as possible”.

The Committee recommends the JFS should provide more detail on how the FPAs will ensure the negative social, economic and environmental impacts of displacement are minimised.

Fisheries Management Plans

Stakeholders raised a number of concerns in relation to the Fisheries Management Plans (FMPs). First, Respondents suggested the approach to FMPs in Scottish waters do not take account of the criteria to determine whether a stock should be covered by a FMP (set out in paragraph 5.3.1 of the draft JFS). These include stocks of “ecosystem significance”, “economic significance” and factors such as “the fishery’s impact on the ecosystem and interactions with non-target species including protected species”.

Professor Harrison told us that, in his view, “it is not clear how these criteria have influenced the development of FMPs in Scottish waters, if at all”.

The Committee asks the Scottish Government to set out how its proposed FMPs meet the criteria set out in paragraph 5.3.1 in the draft JFS.

Stakeholders highlighted that all the proposed FMPs for Scottish waters are for single species whereas FMPs proposed in other parts of the UK also take regional or multi-species approaches. These respondents argue Scottish FMPs fail to take into account interactions between different species; for example, SIFT argued “the production of FMPs which solely cover single stocks calls into question Marine Scotland's understanding of, and commitment to, its obligation to ensure an ecosystem-based approach to fisheries management”.

In particular, a number of respondents highlighted the FMPs focus on pelagic and demersal species, with key shellfish species not included. Open Seas told us it understands that regional inshore fisheries groups will be asked to develop plans for shellfish stocks but argued that this is inappropriate because they are “neither formally constituted or legally accountable”.

In response to these issues, officials stated the Scottish Government can revisit the list of FMPs at a later date but that FMPs on non-quota stocks would be more complex and challenging and the Scottish Government would learn from other fisheries policy authorities' experience before taking any further decisions.

Stakeholders also highlighted the short timescales for the Scottish FMPs, proposed for 2021-2022, compared with the regional or multi-species FMPs proposed by the other fisheries policy authorities. When we asked you about these, you highlighted the very challenging timescales to develop the FMPs and that the Scottish Government's initial focus has been on stocks of commercial interest and on which you have the most information on. You indicated the Scottish Government will keep under review the need to develop further FMPs and intends to learn from the other fisheries policy authorities' experiences. The Committee accepts the logic of this approach but, given the relative importance of fisheries and the wealth of knowledge and expertise in Scotland, it encourages the Scottish Government take a leading role in the development of FMPs.

The Committee would appreciate further information on the plans the Scottish Government has for future FMPs beyond 2022 and how lessons learned from other administrations will inform the Scottish Government's approach going forward.

Concluding remarks

The management of UK fisheries as a result of withdrawal from the EU will clearly have significant implications for both the fisheries policy authorities and industry. It will take some time to establish new governance structures and develop policy mechanisms. There are also implications for how devolution works across the UK.

Based on the evidence we have taken on the consultation draft JFS, we are content the consultation draft JFS provides sufficient high-level ambitions for the management of UK fisheries over the next six years. We agree with the

regard to protecting fish stocks, safeguarding the marine and coastal environment and supporting the fishing industry.

As you recognise, however, the JFS is a document to be built on and developed by each fisheries policy authority and **we are committed to maintaining a focus on the detailed implementation of the JFS and FMPs over the course of the parliamentary session. The Committee asks, therefore, the Scottish Government to provide a biannual written update on its progress towards the implementation of the JFS and the FMPs. We ask that this cover the main issues covered in this letter – namely, how each of the fisheries objectives will be met; the development of science and the evidence base; the development of fishing opportunities; co-management and effective engagement with industry; and the number, detail and implementation of FMPs.**

The Committee also commits to considering the impact and implementation of the JFS when considering wider fisheries policies and strategies.

Finally, and as we indicate earlier in this letter, **we are concerned about the lack of clarity around how some UK post-EU exit legislation interacts with devolved competence, in particular, the UK Internal Market Act 2020, some aspects of the Fisheries Act 2020 and Subsidy Control Bill.** Providing clarity on the post-EU exit devolution settlement will also remain an important aspect of our scrutiny over this parliamentary session.

I look forward to receiving your response to the various issues raised by the Committee in this letter.

Yours sincerely,



Finlay Carson MSP
Convener
Rural Affairs, Island and Natural Environment Committee