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Partial Regulatory Impact Assessment for the proposed new Salmon & Freshwater Fisheries Bill

The Salmon & Trout Association (S&TA) is an international organisation representing the interests of 100,000 individual and club-based game anglers, fishery owners, managers and affiliated trades throughout the United Kingdom. We are grateful for this opportunity to comment on the Partial Regulatory Impact Assessment (RIA) for the proposed new Salmon & Freshwater Fisheries Bill.

S&TA welcomes this process, which will hopefully lead to the publication of a new Fisheries Bill later in 2006. In particular, the consolidation and modernisation of fisheries legislation, as proposed under the recent review of Salmon & Freshwater Fisheries legislation by the Warren Committee, is to be welcomed, as is the premise that the Bill should follow the recommendations of that Committee's report.

S&TA broadly agrees with the contents of this RIA, but would wish to make the following particular observations:

Fisheries and Angling

- S&TA urges that the Bill clearly defines the term 'Fisheries'. As a member of the Moran Committee, which gave evidence at all stages of the review process, we defined fisheries in ecological terms:

'an aquatic ecosystem in which, under natural circumstances, the highest form of life living wholly in the water is fish.'

Therefore, a distinction should be made between the act of *fishing*, including angling – the activity of catching, or attempting to catch, fish – and the aquatic ecosystem in which fish exist – a *fishery*.

A further distinction should be made between *natural* fisheries, which depend upon natural environmental conditions and may or may not be exploited by fishermen (including anglers), and *artificial* fisheries, which are constructed purely for the activity of recreational angling.

S&TA believes that the Bill should give due recognition to the part played by fisheries management and angling (as a principal provider of funds for fisheries management) in conserving the aquatic environment. This is especially

important in the future management of Special Areas of Conservation (SACs) under the EU Habitats Directive, where it may be seen as prudent for conservation purposes to limit numbers of, or even exclude altogether, anglers from a section of river, a lake or perhaps an entire catchment.

This we see as potentially counter-productive, in that fisheries management invariably benefits the aquatic environment, and successful fisheries are a natural indicator to the health of a catchment. Recent research has shown that the majority of fees paid by anglers to fish are reinvested in fisheries management and conservation initiatives, and therefore angling not only provides socio economic benefits to local communities, but also provides significant funding to protect the aquatic environment. Fisheries management and angling should therefore be seen as beneficial to conservation initiatives within sensitive aquatic ecosystems such as those contained in SACs.

- We comment on proposed byelaw making powers of the Environment Agency (EA) below but, as a general comment, while we welcome many of the proposals to increase these powers, we do urge an overall principle that a robust Appeals Procedure be put in place to counter any perception that the EA is both 'judge and jury' in fisheries management issues. We also urge that, wherever practical, a thorough consultation process be undertaken, both locally and nationally, before byelaws are introduced. However, we fully support the proposal that the EA should be empowered to make time-limited emergency byelaws in special situations, such as a serious outbreak of disease, without consultation, the time taken for which could jeopardise local fish stocks or fisheries.

On specific issues within this Partial RIA, S&TA would like to make the following comments:

Section 1 - Licensing of Fishing Activities

- 1.2 S&TA welcomes the modernisation of licensing and authorisations for fishing activities (although please see below in 2 under General Comments). However, we have a slight concern over the intention to reform the current Net Limitation Order (NLO) system and, while we appreciate that details are not yet available, we would not wish to see any new scheme whereby the ability to limit the number of net licenses for a given fishery was lost. The zero NLO imposed on the North East Drift Net Fishery was a vital ingredient in phasing out (and buying out for fair compensation) licensees, and this is an imperative tool in the local fishery manager's armoury.
- 1.2 S&TA also welcomes measures for the EA to be able to refuse to grant commercial fishing licenses, or to withdraw them (subject to a thorough Appeals process). The EA should not be under an obligation to license a specific number of commercial fishermen in any given fishery.
- 1.3 S&TA has long lobbied for the adoption of a group license system, whereby beginners can learn to fish under a group license held by a coach. We feel this is a major step forward in attracting greater participation into angling.
- 1.4 We welcome the banning of gaffs and tailers.
- 1.5 We welcome the extension of byelaw making powers to cover sea trout. However, if this power is to be lodged with the Sea Fisheries Committees (SFCs) under new statute law, we would welcome a statutory duty to consult

the Environment Agency. It seems strange that the EA has existing statutory powers to manage migratory salmonids out to six nautical miles, but no jurisdiction over net mesh sizes in coastal waters. S&TA would welcome a statutory responsibility for SFCs to consult with the EA over all byelaw issues, which could affect the passage of migratory fish through, or the marine cycle of sea trout remaining within, coastal waters.

Section 2 – Prohibition of sale of fish caught by rod and line

- 2.1 S&TA welcomes the proposals to ban the sale of rod caught fish, at the very least bringing English law on a par with Scotland (although we discuss more stringent regulations under 'Carcass Tagging' below). However, we urge that this section should also immediately cover the sale of ALL species of freshwater fish caught on rod and line.

Section 3 – Byelaw making powers of the Environment Agency

- 3.1 S&TA fully supports the power for the EA to make byelaws as necessary, but stresses the requirement for a genuinely thorough consultation process with both local and, where appropriate, national fisheries and angling organisations.
- 3.2 Although national byelaws may be necessary from time to time, S&TA urges that, wherever possible, byelaws should be made locally at catchment level. Catchment management provides more flexibility than overarching national measures, and also includes local interests in the decision-making process, generally leading to ownership/support of catchment initiatives.
- 3.3 However, S&TA is concerned at the lack of statutory entitlement to compensation for an owner/occupier of a fishery 'injuriously affected' by a byelaw made by the EA. Whilst we appreciate that statutory compensation has proved a problem in some recent legislation, the EA's powers, for example, to close a fishery without due compensation could be considered draconian, and even an infringement of riparian rights.
- 3.4 S&TA supports the principle of carcass tagging, but we wonder about the administrative viability of issuing 25,000+ anglers with tags. We would prefer to see commercial fishermen (under EA license) issued with tags, and for it to become an offence to sell any salmon or sea trout to a dealer/retailer without an attached tag. S&TA would also wish to see it made an offence for any dealer/retailer to sell salmon or sea trout without an attached tag (this is arguably a serious omission from recent Scottish legislation).

General Comments

S&TA would also wish to make more general comments on the proposed Fisheries Bill:

1. It is imperative that the new Bill retains the statutory duty for the EA to;
 - 1.1 'maintain, improve and develop' fisheries.
 - 1.2 regulate water quality and prosecute pollution offences, whether from point or diffuse sources.
2. The EA should have the statutory duty to take socio economic benefits into account when regulating fisheries. This is particularly relevant to apportioning the exploitation of fish stocks between commercial fishermen and anglers, taking into account the considerable economic premium generated by angling,

often in remote communities, and the conservation advantages of angling over commercial fishing (a fish caught by an angler may be returned alive to the water but, nonetheless, still generate socio economic benefits, whereas a fish has to die to provide an economic benefit to a commercial fisherman).

We have a particular concern over the continuing discrepancy between commercial net license fees and those paid by anglers for their rod licenses. As far back as 1994, the National Rivers Authority stated an intention to move towards a fairer balance between the cost of the two licenses (which would have entailed an increase in net licenses of up to ten times their cost at that time), but this has not materialised. Indeed, the gap between rod and net licenses has widened still further, to the extent that net licenses in the East Coast drift net fishery now return just 25p per fish to the EA, whereas anglers pay up to 200 times that figure! This bears no relationship to the socio-economic premium derived from angling, nor the considerable funds generated through angling fees which are reinvested into management and conservation initiatives.

- 3 It should be mandatory under the new Bill for any escapes of fish from aquaculture units or other enclosures to be reported immediately to the EA, and for such information to be passed to local fisheries interests likely to be impacted. Those allowing such escapes to occur should be liable for all reasonable costs incurred during recapture of escapees, or any other protective measures necessary as a result of the escape.

We would like to thank you again for this opportunity to comment on the Partial RIA, and look forward to receiving the remainder of the sections contained within the Bill.

Paul Knight
Executive Director