



# Salmon & Trout Association

Fighting for the future of game angling

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## RESPONSE TO CONSULTATION ON THE MARINE BILL WHITE PAPER

Dear Sir/Madam,

This response is on behalf of the 100,000 individual and club members of the Salmon & Trout Association UK. The Salmon & Trout Association (S&TA) represents the interests of game anglers, fishery owners and managers, influencing Government angling and environmental policies and practices. The Association introduces adult and junior newcomers to fly fishing through an extensive education programme, and supports conservation projects undertaken by the S&TA Charitable Trust. This response has been prepared in consultation with the Institute of Fisheries Management, Fisheries and Angling Conservation Trust, Atlantic Salmon Trust, and the National Federation of Sea Anglers.

### General

The S&TA welcomes the opportunity this White Paper represents to make major improvements to the policy framework for both marine biodiversity conservation and resource exploitation. In particular, the S&TA supports the aims designed to halt the decline and promote the recovery of marine and coastal biodiversity. The S&TA welcomes the concept of coordinated planning and spatial management of the marine environment.

There remains a lack of clarity as to whom the White Paper will apply. Devolved Government differences need to be clarified and resolved to enable overarching common principles and measures to ensure ecosystem management and the application of the precautionary principle. Additionally, the many pieces of fisheries, ecosystem and habitat legislation and agencies covering the estuaries, 0-1, 0-3, 0-6 and 6-12 mile zones will continue to contribute to confusion, unless these are clearly addressed, integrated and resolved.

This response principally addresses issues in England and we note with concern the current uncertainty about future developments in Wales.

Unfortunately, the current EC regulations and the enforcement of these regulations have not ensured the sustainability of marine and migratory species. The harmful impact of industrial overfishing licensed under the CFP remains an outstanding issue requiring the UK to undertake urgent pressure for dramatic reform. The S&TA urges the UK to lead concentrated efforts to urgently reform the CFP so that it accords priority to conservation over exploitation.

Migratory fish species in England and Wales are endangered. Atlantic salmon, eels, White shad, Allis shad, smelt, vendace, whitefish and sea lampreys are listed endangered species. (Sturgeons are also listed but extant). Sea trout, is a species of serious concern in a number of areas. This shows the necessity for better fisheries legislation in the freshwater and marine environment, better enforcement of regulations, and support for national and local action to protect and restore damaged habitats.

The urgent challenge on how to reverse the dramatic decline of these species has not been clearly addressed by the Marine Bill. Currently, the legislative protection and responsibilities for these species are split between various pieces of legislation and authorities. For example, the EA leads on the WFD and fulfilling its conservation duties out to the 1 mile limit, which overlaps with the SFC's jurisdiction. There remains concern about the SFC willingness to prioritise conservation and management of species especially if these species have no conservation value. For example, at sea only the police have the authority to enforce the protection of species not fished commercially in the UK, such as Shad, which is protected under Wildlife and Countryside Act.

Because of the special circumstances of diadromous migrants and their generally threatened status, we suggest that consideration be given to establishing a harmonised and cooperative approach to the conservation and management of diadromous fishes that is competent in both marine and freshwater phases of the species in question. The Government has a legal duty under the Water Framework Directive and Habitats Directive, to conserve and manage species even if they have no direct importance to exploitation. However, without a unified approach there is little chance of succeeding. The Marine Bill, MMO, SFC, EA and relevant conservation agencies need to work together with stakeholders to address this challenge.

There is a need to include changes in the Salmon & Freshwater Fisheries Legislation in the Marine Bill to overcome legislative weaknesses and inconsistencies. This could allow for improved protection and management of migratory species.

Aquaculture is a known threat to health and sustainability of wild migratory fish species. It is unclear on how the Marine Bill will address the interface of aquaculture with migratory species. Any proposed movement of aquaculture into the England and Wales jurisdiction must not be undertaken without strong scientific evidence that that the practices of the

aquaculture industry are sustainable. There must be no harm, or potential harm, caused to migratory species from disease, parasite transfer, and escapes from aquaculture.

The S&TA is opposed to the sea anglers licence fee proposal given the lack of clarity and recognition of the costs and benefits.

## **Management**

The overall aim of co-ordinating and simplifying current aspects of marine conservation, licensing and regulation is clearly laudable. Thus the Marine Management Organisation (MMO) concept has merit. The tasks facing the MMO look to be wide-ranging and, in many cases, detailed. It will include planning for fisheries, conservation, wind-farm development, dredging, dumping, etc. The staffing will include the current Marine Fisheries Agency numbers (154 in 2005-2006, according to the MFA report for that year). With proposed MMO staffing at 300-350 (page 125, Para 8.3). Thus, it would be useful to have a proposed organisational structure and some idea of expected staff loading and priorities.

What the White Paper should note is that for the UK to manage the living marine ecosystem, it must negotiate and sanction the adoption of fisheries legislation at the European level, as responsibility for all living marine resources is shared through the European Union through the Common Fisheries Policy (CFP); and until 2013, in the partially derogated territorial waters in the 6-12 mile limit, with the exception of the territorial waters up to the 6 mile limit.

However, it is not proposed to include the Licensing of Oil and Gas Operations within the authority of the MMO. The reason given is that the current system (under Department for Trade and Industry) is not seen to be failing. It will be very important for the proposed marine spatial plans to encompass territorial waters out to the 200 mile zone and for adaptive fisheries management plans to go out to the 12 mile zone. The fishery plans must be key components for the decision making process involving the licensing of oil and gas operations. The Sea Fisheries Committees, the MMO, the Environment Agency and other Government agencies and non-Government organisations must be able to exert adequate influence over the environmental (including fishery) aspects of oil and gas licensing and regulation. More work on how this will be achieved needs to be undertaken and shared.

Additionally, the S&TA is concerned to learn that Marine Conservation Zones and Marine Protected Areas may still be open to oil and gas operations as well as wind or wave power development, aggregate dredging and other industry uses. This would be wholly unacceptable and inappropriate.

## **Sea Fisheries Committees.**

Overall, the aim of regularising and clarifying the status and purposes of Sea Fisheries Committees looks to be worthwhile. We also support the expansion of the Sea Fisheries Committees conservation responsibilities. However, with the increased conservation responsibilities the SFC's will require significantly increased funding to meet these duties. The S&TA has concerns that under the current and proposed funding structure the ability to secure the necessary funding could be compromised.

With local management must come appropriate funding and control over decisions. For example, it is S&TA's view that funding for fisheries enforcement activity must be increased in order to ensure the required fisheries management regulations are followed and appropriate fines and penalties deter illegal fishing, particularly on endangered and protected species, such as Atlantic salmon, eels and shad. The Government must ensure the SFC's have sufficient funding to meet their conservation responsibilities.

The proposals for the membership of SFCs (Page 103), will ensure that the representatives of "Fisheries, angling and other relevant interests" will always be in a minority. This is unfortunate, as citizen interests in marine conservation and recreation must have transparent and accountable influence and representation on SFCs decisions. The way to achieve this representation is to ensure appropriate and effective representation.

As increased fishery and conservation powers and duties will be granted to the SFC's, it is important that the governance structure and the ecological, political and social systems are integrated at the local level, with the necessary responsibilities, power and funding to carry out their marine and coastal biodiversity conservation and resource exploitation management duties.

"Proactive marine spatial plans may be produced in keeping with the concepts of the ecosystem approach and stakeholder involvement, but they will only be significant if they form they basis for decisions on development activities and proposals."<sup>1</sup>

This planning and decision making principle will have particular relevance to the management of fisheries within the 12 mile zone and to fisheries and other activities such as oil and gas operations within the 200 mile zone.

Currently, SFCs have authority to make fishery by-laws up to the 6 mile limit, and will be able to introduce emergency measures at short notice, which is good. There must be clear direction to the SFCs to inform and consult stakeholders when preparing by-laws and emergency measures

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<sup>1</sup> Jones, PJS (2006) The Marine Bill: Cornucopia or Pandora's Box? ECOS: A Review of Conservation 27(1), 1-6 (Editorial of special issue on the Marine Bill in the journal of the British Association of Nature Conservationists).

The current void and inconsistencies in management in the 6 to 12 mile zone need to be addressed.

The application of different fishing rules to boats of different nations in the 6-12 mile zone does not make for sensible and sustainable fisheries management. The UK has been complicit in endorsing EC regulations that allow different regulations to apply to vessels of different national origin. The UK must lobby to end this inconsistency to ensure the same regulations and enforcement applies to all vessels, of whatever nationality, fishing within the 12 mile zone. Otherwise, the conditions required for sustainable management have not been applied.

Appropriate and timely conservation measures must be set and must form the basis for fishery management decisions. Furthermore, the UK must better represent wider biodiversity and fishery interests that extend beyond the UK's territorial waters. These species can only be conserved through co-operative policies covering all relevant states. The S&TA advocates urgently reforming the CFP so that it accords priority to conservation over exploitation.

## **Marine Conservation**

The S&TA supports the concept of Marine Conservation Zones and Protected Areas. We favour the approach piloted in the SW where there is extensive consultation and involvement of the local community. The current and future socio-economic benefits of recreational angling must be taken into account when designating and managing these areas.

The recovery of fish stocks, which have shown a consistent and serious decline in both numbers and average size, should be emphasized and targeted as a priority conservation objective and management activity. Without a recovery of fish populations, the whole of the marine biodiversity and the dependent recreational marine sea and salmon and sea trout angling sector are under threat.

S&TA supports the improvement to the marking of fishing gear in order to make it possible from examination of the markers to know the owner of the gear and the type of gear. The markers should be visible at all states of the tide.

S&TA supports clearly defined limits on catch effort and the required collection of catch data.

## **Integration between land and sea**

Integration between land and sea is very important for the management of fish stocks that migrate from sea to fresh water to breed. It is also essential to take account and address

the impact from pollution coming into waterways, estuaries, coastal areas and the sea as a result of inadequate and damaging land and water management.

The S&TA notes with serious concern, that the challenge of migratory species is not adequately addressed in this Marine Bill White Paper. For example, in England and Wales, Atlantic salmon, eels and shad, are endangered. The forth, sea trout, has dramatically declined a number of areas. Clearly this indicates that UK's migratory species are in serious trouble. To date the urgent challenge on how to reverse the dramatic decline in these species has not been addressed by the Marine Bill nor in any other proposal. More work with conservation organisations is necessary to ensure the legislative and management structures rise to this urgent challenge and reverse the dramatic decline of migratory species.

Due to the dramatic decline in salmon stocks throughout England and Wales, sea trout, has come under increased pressure. The lack of salmon has increased the social and economic importance of the sea trout to the commercial and rod fisheries in many areas such as Wales. While, current evidence (such as it is) indicates that overall sea trout stocks are reasonably healthy at this time, there are indications of a marked decline in both the quality and quantity of sea trout catches in several regions. This indicates the need to adopt a precautionary approach to the management of the key resource. We need to review proposals on how this required work will be undertaken. Unfortunately, the Marine Bill White Paper does not have these proposals.

The consultation document refers only in passing to salmon and sea trout, which are subject to separate fisheries legislation. However, as noted in the Atlantic Salmon Trust response to this White Paper, they are affected by conditions in and the management of the marine environment. Both are anadromous fish, spawning in fresh water, where juveniles spend the first years of their lives; juveniles then migrate to sea as smolts where they mature before themselves returning to their natal streams to spawn. Smolt survival can be affected by conditions in inshore waters, such as pollution and declines in marine prey species such as sand eels. Both salmon and sea trout are vulnerable to exploitation, both legal and illegal, when they return as adults. It is important that the conservation needs of these two species are taken fully into account in the new fisheries and marine environmental management arrangements now being proposed.

Because of their vulnerability to interception, as they return to their spawning rivers, salmon and sea trout have long been subject to specific fisheries legislation.

Similar arguments to those for salmon and sea trout may be applied to eels and shad.

Notwithstanding SFCs' general responsibility for sea fisheries in the inshore zone, the Environment Agency has responsibility for the regulation of fisheries for salmon and sea trout (and eels) out to 6 miles.

SFCs have powers, under the Salmon Act 1986 to make byelaws to protect the migration of salmon and sea trout; these have been used, and should be used, to prevent fishing

for salmon and sea trout and other endangered species in the guise of fishing for sea fish.

Because of the special circumstances of diadromous migrants and their generally threatened status, we suggest that consideration be given to establishing a harmonised and cooperative approach to the conservation and management of diadromous fishes that is competent in both marine and freshwater phases of the species in question. The Government has a legal duty under the Water Framework Directive and Habitats Directive, to conserve and manage species even if they have no direct importance to exploitation. However, without a unified approach there is little chance of succeeding. The Marine Bill, MMO, SFC, EA, relevant conservation agencies and organisations need to work together with stakeholders to address this challenge.

There is a need to include changes in the Salmon & Freshwater Fisheries Legislation in the Marine Bill to overcome legislative weaknesses and inconsistencies. This could allow for improved protection and management of migratory species.

### **Inshore Fisheries Management**

As stated in the Fisheries and Angling Conservation Trust response, the consultation paper states, in paragraphs 7.68 and 7.69, that it does not propose to change the Environment Agency's general responsibility for salmon, sea trout and eels within the inshore zone, although it will look at the arguments for transferring management responsibility for estuarine areas from the Agency to the relevant SFC.

In addition, in some coastal areas where SFCs have not been established, the Environment Agency itself acts as, and has the powers of, an SFC (these areas include the majority of the estuaries of major salmonid rivers).

The arrangements for regulating salmonid fisheries in inshore waters were considered by the Government's Salmon and Freshwater Review, which reported to Ministers in February 2000. This made two recommendations (20 and 21) on this issue that the Government undertook to consider. In particular, the Review's recommendation 21 was that:

'There should be a full review of the role and powers of SFCs in coastal waters and the relationship between the SFCs and the Environment Agency. This should cover, among other things:

- the respective roles and jurisdictions of the Environment Agency and SFCs;
- how co-operation between the Environment Agency and SFCs can be improved so as to make best use of resources devoted to the enforcement of sea fisheries and salmon and fresh water fisheries legislation in coastal waters;
- extending the Environment Agency's powers to act as an SFC in estuaries of rivers containing migratory salmonids;
- how the Environment Agency and SFCs can best co-operate to regulate eel fisheries in coastal waters;
- how best to protect diadromous fish, other than salmon, sea trout and eels, in

coastal waters.'

The review that is now being proposed of management responsibilities in estuaries should take into account all the issues raised in recommendation 21.

In doing so, it should bear in mind the reason why the Environment Agency has SFC powers in many of the estuaries of salmonid rivers; it is to ensure the effective control of sea fisheries that could impact adversely on migrating salmonids. It is essential, therefore, that responsibility for sea fisheries in such estuaries is not transferred to the adjacent SFC without open consultation and effective arrangements, including funding, being in place to ensure the protection of salmonids and co-operation between the Environment Agency and the relevant SFC.

Sea fisheries can, of course, adversely affect salmonids outside estuaries, which is why SFCs have byelaw making powers under the Salmon Act 1986. For this reason, the review should also examine how salmon, sea trout, eels and shads can best be protected in coastal waters.

At the minimum, SFCs should be given a legal duty to protect and conserve salmon, sea trout, eels, shad and other migratory species in coastal waters. Notwithstanding the Environment Agency's fisheries duty, the review should also consider ensuring the responsibility for enforcement of legislation at sea to the enhanced SFCs through a strong and accountable cooperative arrangement with the Environment Agency.

*However*, this work should take place within a unified mechanism for the conservation and management of diadromous fishes that is competent in both marine and freshwater phases of the species in question.

If such an understanding of responsibilities were understood and made operational, it would be essential that this strengthened cooperative arrangement between SFCs and the Environment Agency were able to address and manage the challenge of supporting the recovery of endangered migratory species. Adequate resources are necessary to fulfil these new responsibilities. The SFC and the Environment Agency should be accountable to a closely involved Environment Agency in the exercise of these responsibilities (which would be aided by the Agency's proposed membership of the remodelled SFCs). The Environment Agency would also need to remain responsible for the licensing and regulation of all salmon and sea trout net fisheries within estuarine and coastal waters.

Regardless of the outcome of the review, the Financial Administrative Penalties proposed for some breaches of sea fisheries legislation should also be introduced for breaches of salmon and freshwater fisheries legislation in estuarine and coastal waters.

## **Management of recreational sea angling**

The proposal to impose a chargeable licensing scheme for sea anglers is intended to fund increased services to sea anglers, but it is admitted in the Regulatory Impact Assessment (Annex 4, page 87) that “it is impossible to quantify the benefits in terms of the value that anglers would place on the improved facilities”. The summary of qualitative costs and benefits in Table 15 (Annex 4, page 85) is interesting – it suggests as a cost: “possible impact on commercial fishing opportunities if stocks are managed for recreational purposes”. It also lists a number of benefits, which are stated in fairly generally terms.

The White Paper itself is more specific in outlining proposed support measure (Page 116, para 7.113) but it is not clear how the MMO will, for example, deliver or instigate the provision of more small boat launching facilities or access to existing and new shore structures.

Overall, the arguments for charging a licence fee are not convincing. And enforcement, especially in the case of beach angling, would seem to be a considerable problem, particularly if the benefits are intangible. With scarce resources and endangered species, the priority for enforcement should be placed on better environmental management on land and sea alongside rigorous enforcement for the prevention of illegal fishing and netting. The S&TA is opposed to a licence fee and is in agreement with the arguments made by the National Federation of Sea Anglers, the Sea Anglers’ Conservation Network and the Fisheries and Angling Conservation Trust.

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