17 January 2013

Dear Rob

AQUACULTURE AND FISHERIES (SCOTLAND) BILL: FOLLOW UP TO EVIDENCE SESSION ON 9 JANUARY 2013

During my evidence session on 9 January I undertook to write to the Committee with further information on a number of points.

Ministerial Group on Aquaculture / Tripartite Working Group / Freshwater Fisheries Forum

You will recall that during the evidence session I made a number of references to the refreshed Ministerial Group on Aquaculture (MGA), whose membership includes representatives from the wild fish and environmental interests. I also indicated that “...once the Bill progresses through Parliament structures such as the MGA will allow dialogue to continue...”. I have tasked the MGA to look in the round at what needs to be done to ensure sustainable growth within Scottish aquaculture in the context of the 2020 objectives, and that includes issues of capacity, interactions, science and potential information gaps.

We discussed both the Tripartite Working Group (TWG) and the Freshwater Fisheries Forum Steering Group – the former was disbanded following a determination that it was no longer the most effective mechanism to address these issues, and the latter has not met for a considerable period of time. While the MGA is an appropriate forum for discussing cross-cutting issues, it has always been the intention to consider separately what refreshed stakeholder arrangements need to be put in place to take forward specific salmon and freshwater fisheries management issues. We will consider how best to engage at a strategic level as part of the wider plans to review the management arrangements for salmon and freshwater fisheries, for which, as I advised the committee, we are currently developing a baseline report on the current position which will in turn inform the scoping exercise for the review.
So, whilst I inadvertently mentioned the MGA in relation to the discussion on Part 2 of the Bill, the clear intention is that a similar type of arrangement will be put in place to take forward specific salmon and freshwater fisheries management issues. I hope that puts my comments at Committee into context to ensure clarity on that important area.

**Training on a statutory basis**

The committee expressed an interest in whether the bill should contain a requirement for training. The Finfish Code of Good Practice makes specific reference to this issue, making it plain that ‘training should be an integral part of the operation of all finfish aquaculture business, with programmes and plans relevant to the various activities being documented. Documented evidence of training of individuals in relevant areas should be maintained.’

It will not surprise the Committee that as part of the wider auditing of the Scottish Aquaculture industry, a number of bodies include training within their assessment criteria. On balance, we believe this is sufficient.

We plan to work with industry to ensure staff are appropriately trained building on the best practice workshops that industry has already introduced.

**Confirmation of aquaculture industry compliance with the Finfish Code of Good Practice**

When providing evidence to the Committee, Professor Thomas from the SSPO confirmed that ‘98% of producers are in the SSPO and it is not possible for a producer to be an SSPO member unless they are signed up to the code of good practice’. Professor Thomas also confirmed my previous understanding that the compliance levels were in the high 90%’s.

The objective remains to have every finfish aquaculture farm in Scotland operating in accordance with CoGP principles and standards.

**Details on the conditions in which the Minister could direct SEPA to reduce biomass of a particular farm.**

As I explained, we do not believe that further powers are required to reduce biomass. We consider it to be within the powers of Ministerial Direction to ask SEPA to do this for purposes other than environmental pollution - for example if persistent sea lice issue were unable to be managed appropriately within the available medicine discharge limits.

**Further information on the Tri-Partite Working Group initiative and how it brings farms, rivers and other wild salmon interests into agreements – why wild fish interests are not involved in FMAgs**

There is already provision within the Finfish Code of Good Practice as part of its guiding principles that indicates that individuals, farmers and organisations involved in the industry should ‘consult and collaborate with Scottish, UK and European authorities and relevant stakeholders in the development and implementation of future polices, practices and regulations to enhance the achievement of economic, environmental and social sustainability of the aquaculture production sector’. So whilst wild fishery interests will have no direct involvement in drawing up Farm Management Agreements, which are properly operational agreements between finfish farmers, they do have the ability to influence their initial and ongoing development through regular engagement and discussion with farmers in their area.
Why triploid salmon are not used in salmon aquaculture in Scotland

Triploid salmon were found to experience higher mortality, increased susceptibility to stress, physical deformities and poor growth. Thus, for mainly welfare reasons, they are not used.

Update on the discussions with SEPA regarding its proposals for simplifying the controls over the licensing of discharges from wellboats.

Discussions are planned for later this month. I will provide a written update thereafter to inform committee of the outcome of these discussions.

Information on the issue of GM salmon in the USA, raised by the Convener – and whether these could be defined as commercially damaging if necessary

The use of genetically modified organisms is highly regulated in Europe and Scotland. The Committee may be aware that regulation on the use of GM organisms in Scotland is described at:

http://www.scotland.gov.uk/Topics/farmingrural/Agriculture/Environment/15159/legislation

It is illegal to hold or release GM animals without approval (such approval would include assessment of potential for detrimental effects). In effect, I can’t envisage a scenario where having approved a GM product through one regulation, that it would then meet the criteria of commercially damaging through another.

Whether there are plans to make the purchasing of rod caught fish illegal, rather than just the sale of such fish?

The Bill contains enabling powers for Ministers to create, by regulations, a carcass tagging scheme. The provision enables the creation of a scheme applicable to both rod caught and/or net caught salmon; we have made no decisions about the type and coverage of scheme we wish to see introduced in Scotland and will consult on the issue in due course. On their commencement, it will be an offence for a person to have in their possession any salmon not tagged, in accordance with the carcass tagging regulations. As such, we do not consider it necessary to create a specific offence for purchase of rod caught salmon.

Whether there are examples of rivers where Scottish Ministers would have liked to change close times but could not

The driver for seeking Ministerial power to make annual close time orders comes not from current or previous failure of local management but from a need to future proof the fisheries legislation in response to issues such as climate change. I consider it necessary for Ministers to have access to the full suite of fisheries management measures in order that they are able to act in cases of national interest or importance. In addition, Ministers should be able to propose amendment to a close time where there is no DSFB, or there is failure at a local level, or where there is a cross-boundary issue that arises and boards cannot reach agreement on necessary action.
Options for improving the quality of data available on wild salmon and sea trout

Scotland collects detailed information on numbers and biological characteristics of salmon at a small number of index sites. These data, together with fisheries catches collected under the 2003 Act (which are of lower quality but provide wide spatial coverage) comprise a valuable resource for national assessment. The Bill includes provision to enable Ministers to collect information on salmon fisheries that is additional to that currently provided under the 2003 Act. This power complements the principles of openness and transparency and responds to widespread calls for greater information sharing among parties. The policy memorandum outlines the Government's intention to consider the need for a national data collection workstream to consider the most efficient collection and use of information and statistics on fish and fisheries. This work will involve stakeholders from across the sector, and we will consider the most appropriate forum for discussion.

The Moray Firth Sea Trout project

This was initially a three year collaborative project combining the efforts of District Salmon Fisheries Boards, Fisheries Trusts and Angling Associations around the Moray Firth to address the imbalance in sea trout management, collate existing information on sea trout stocks and identify where further data is required to facilitate improved management practice. The management area extended from the River Deveron in the East right round to the Kyle system in the North and took in all rivers and coastal streams round the coast.

The project ran from March 2008 – January 2011. A link to their report is provided below:


Coarse fishing sector's views on the Bill

Stakeholders had suggested to the Committee a number of potential issues relating to freshwater fisheries (which include coarse fish), which might have been considered by the Bill. These will helpfully inform the scoping of the Governance Review of salmon and freshwater fisheries management and will be considered in this context.

Cockle fishing stage 2 amendment – ensuring that those engaged in illegal activity but not caught in the act or caught with paraphernalia could be pursued

The ability to pursue persons suspected of being involved in illegal fishing for cockles will depend, of course, on the availability of evidence that proves the commission of that offence. As my officials indicated during the evidence session the Government led proposal for Stage 2 is still under development. The intention is that it will seek to alter existing offence provisions in a way that will better allow the courts to infer that an accused was a person concerned in the illegal fishing for cockles from circumstantial evidence. Each individual case will, of course, need to be considered on its merits and it will be a matter for the courts to determine whether the accused should be convicted on the available evidence. The proposals are currently being discussed and developed with Crown Office.
Comment on the Bill’s contribution to sustainable development

I am aware of the comments made by Professor Colin Reid in relation to the Policy Memorandum and its commentary on the sustainable development question. However, the Bill and all of the accompanying documents have been written based on the principle of sustainable growth. I concur with Professor Reid’s point that sustainable development encompasses a number of facets – both economic, environmental and social – and that is foremost in our mind. I believe that is reflected in the provisions within the Bill, and by the clear message that growth must be sustainable.

As I have made clear the Scottish Government wants to encourage a sustainable, growing industry that minimises its impact on the broader marine environment. In previous evidence it was made clear that the forthcoming National Marine Plan will ultimately set the baseline for development in the marine environment, of which aquaculture and wild fisheries are component parts. The Bill, taken together with the existing regulatory framework, will provide the basis for incremental sustainable growth – but as I said in my opening statement, it is not a guarantee of growth. If at any point it is evident that there are concerns with the sustainability of growth in any particular area, there will be the ability to intervene and take appropriate action.

The Bill’s contribution/effect on climate change mitigation

A number of the salmon fisheries provisions are driven by the challenges posed by climate change. Collection of further information on fisheries and the ability to take genetic samples can aid measurement of and, where possible, inform action to mitigate the potential changes which might be brought about through - for example - increases in water temperature or changes in marine feeding grounds. I have already referred to climate change as a key driver of the annual close time provisions; in addition, the provisions on introductions will introduce an element of flexibility to the consenting process should it be required.

Should seal scarers be regulated?

There are a range of views on the effectiveness of currently available non-lethal deterrents used for seals management, including ADDs (acoustic deterrent device) which pose a risk to other species such as cetaceans, and to date none have entirely removed the risk of seal predation. That is why the Scottish Government is funding research into best practice in using non-lethal measures in order to be able to identify effective technology, which does not cause harm to other marine species. The intention is that this should, in the future, inform the requirement of the seal licensing system on non-lethal alternatives, including best practice and minimum standards.

With respect to the cetacean friendly ADD which has been mentioned to the committee, I believe the University of St Andrews does now have an investor for advancement of commercialisation of this device. I understand that they signed a technology licence for commercialisation of the devices only last month. A Scottish Government sponsored research project showed, through captive experiments, that seals can be deterred by many sounds but that this effect can gradually disappear over time. The new acoustic deterrent involves a ‘startle stimulus’ which appears to continue to work over time.
We have no plans to regulate the use of seal scarers at this time.

I hope the Committee finds these comments helpful and as I indicated earlier, I will write to the committee following the discussions due later this month with SEPA on licensing of discharges from well boats.

Kind regards

PAUL WHEELHOUSE