Follow up from stage 1 evidence session (Wednesday 12 December 2012) and supplementary evidence supplied by the ASFB.

During the oral evidence session on 12 December 2012, I provided the Committee with an overview of the stocking activities of District Salmon Fishery Boards. I also spoke about the need for Boards, particularly in their role as a Competent Authority (as defined in The Conservation (Natural Habitats, &c.) Regulations 1994 as amended) to adhere to the requirements of this legislation. These responsibilities are clearly set out in Regulation 3(3) which states that Competent Authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions. More specific provision exists in Regulations 47 and 48 which set out the procedural requirements for Competent Authorities as provided in the Habitats Directive.

I also expressed the view that not all DSFBs who operate hatcheries apply for a licence (under Section 14 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003) if they wish to catch broodstock outwith the salmon angling season, from Marine Scotland. This may be due, at least in part, to the wording contained in Section 45 of The Salmon and Freshwater Fisheries (Consolidation)(Scotland) Act 2003, which states that: A District Salmon Fishery Board may do such acts, execute such works and incur such expenses as may appear to them expedient for - (a) the protection or improvement of the fisheries within their district; (b) the increase of salmon; or (c) the stocking of the waters of the district with salmon. This may, in good faith, have led some DSFBs to believe that a licence is not required.

In supplementary evidence supplied to the Committee on 18 December 2012, the ASFB rightly commented that some Boards may obtain broodstock without the need for a licence if these are obtained by rod and line whilst the angling season is still open.

It is the SNH view that, whilst the capture and retention of fish during this time is perfectly legitimate, if these retained fish are then utilised as the central component of a wider hatchery operation, then this activity should be subject to the Habitats Regulations assessment process by the relevant District Salmon Fishery Board in their capacity as a Competent Authority.

To be clear, stocking (which includes both broodstock collection and the introduction of hatchery-reared fish at all stages) is an activity which is considered to be a plan or project under Article 6.3 of the Habitats Directive. Under Regulation 48 of the Habitats Regulations, this means that the competent authority has a duty to:

- determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not,
- determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then...
make an appropriate assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

Competent Authorities may only grant consent if they have made certain that the plan or project will not adversely affect the integrity of a European site or sites (subject to derogation in exceptional circumstances). That is the case where no reasonable scientific doubt remains as to the absence of such effects.

The key conservation objective for Atlantic salmon in this regard is to maintain, in the long term, the population of the species (including the full range of genetic types) as a viable component of the site.

In the evidence session on 12 December 2012 witnesses informed the Committee of the complex genetic structuring which exists within Atlantic salmon populations in individual river catchments. We added that our knowledge in this area has been greatly enhanced by the RAFTS-led FASMOP (Focussing Atlantic Salmon Management On Populations) project. It is considered that these individual populations are highly adapted to their natal river, or part thereof, and it is important therefore to maintain the genetic integrity of each if stock resilience is to be maintained. If broodstock are collected in areas outwith their final spawning destination (either through angling or other means of capture), then it follows that the natal population of each captured fish will be unknown. The current scientific view indicates that this could have negative biological implications for both the original parental population (through the loss of recruitment potential), and for salmon in areas where these fish are subsequently introduced. The Habitats Regulations Assessment procedure serves to ensure that any such implications are identified before potentially damaging plans or projects take place.

The purpose of this note is to inform the Committee that, regardless of the method of capture, the collection of broodstock for stocking purposes and the eventual introduction of these fish to locations within a Special Area of Conservation should be assessed, either together or in isolation, in accordance with the requirements of the Habitats Regulations. The need to assess the impact of this activity applies not only to the Atlantic salmon, but also to those other species for which the site has been classified.