SUBMISSION FROM BRITISH PORTS ASSOCIATION

This response is made on behalf of the British Ports Association which, through its Scottish Ports Committee, represents the overwhelming majority of ports in Scotland. The ports industry collectively is hugely important to the Scottish economy, not only through the cargo and passenger handling operations traditionally associated with ports, but also through the support they provide to the offshore energy industry, to fishing and to tourism; they also provide lifeline services to the islands. The development of the offshore renewable energy sector is a recent example of both the key significance of ports and their contribution to both economic and environmental objectives.

With these points in mind, the proposals from the Scottish Government in relation to the Crown Estate have great significance for ports and we have a direct interest in the conduct of the debate and the outcome.

The majority of ports have lease agreements with the Crown Estate (there are a small number of ports which actually own their seabed) and so the relationship with the Crown Estate is both a close and commercial one. Our response therefore focuses on the business implications of any change.

Our basic position is that we are unconvinced of the benefits of a change to a devolved Scottish Crown Estate. This is a majority view and there are some who take the view that devolution, and in fact much greater local control of Crown Estate revenues, would be beneficial.

We have a number of concerns. It has been our experience that over the past ten years, and starting from a position where there was strong criticism of the way in which the Crown Estate went about lease negotiations, we are now in a position where there is relative satisfaction with the lease agreements that have been reached and the way in which they have been negotiated, albeit that there will always be tensions in the landlord/tenant relationship. The paper issued by the Scottish Government in June on the Crown Estate refers to “long standing concerns about the current arrangements and a ground swell across Scotland for change”. We would be interested to see the evidence for this in the marine sector which goes beyond any expected criticism of a landlord trying to maximize returns from its assets. The Crown Estate are essentially a landlord and we do not see how devolving to Scotland would affect this role; so far as we can see, it will always need to be in the position, in terms of promoting the public interest, of getting as good a deal for the tax payer as possible.

The paper also refers to the Crown Estate’s “narrow remit” of maximizing returns. Notwithstanding our previous concerns about ensuring profitability, the Crown Estate have nevertheless been investing in the development of offshore renewables. For example, the BPA is a member of the Offshore Wind Developers Forum Supply Chain Group, a group organized by the Crown Estate which is actively looking to control and reduce the cost of renewable generated electricity. It has set aside £300,000 for the project. It was announced in July that 50% of the revenues from the Crown Estate’s current activities will finance a new Coastal Communities Fund.
These activities and other cooperative agreements serve to demonstrate that the Crown Estate do not always act in a “traditional” landlord way and do see themselves as investors. Some of the conclusions drawn in the government’s June paper could be re-considered in the light of these factors.

It could also be argued that with the relatively modest sums generated by the marine estate in both Scotland and nationally, splitting this resource could compromise UK initiatives such as the one on costs referred to.

Another major concern is the way in which revenues from the Crown Estate might be used for community and other benefits. Although the objectives which have emerged so far represent worthy investments of one kind or another, they create the possibility that Crown Estate charges will be not so much about the commercial value of a particular piece of the seabed, but based on the need to raise certain sums of money to fund different schemes, running the risk of becoming a hypothecated tax on new developments. It would also represent a quite different system from the rest of the UK where, presumably, the Crown Estate would continue along current lines and where there is strong competition with Scotland for new developments. Bearing in mind the relative high costs of renewable generated electricity already referred to, this could have a negative effect on Scottish investment.

Our main conclusions are:-

- Ports have achieved a good and workmanlike commercial relationship with the Crown Estate in recent years.
- There is evidence that the Crown Estate using national resources is making investments in new business and specifically offshore renewables.
- Using lease agreements to raise money for specific projects could lead to price distortion; prices should be controlled by market demand.
- We are unconvinced that devolution of the Crown Estate will produce significant benefits.

British Ports Association
12 September 2011