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For the attention of: Marine Legislation Division, Defra,
Area 2E, 3-8 Whitehall Place, London SW1A 2HH.

Dear Sir, UK Marine Bill : Public Consultation on White Paper.

I write on behalf of MARINET, the Marine Network of Friends of the Earth Local Groups, to submit our thoughts and comments regarding the proposals for a UK Marine Bill as published in the White Paper dated March 2007.

We offer our comments in accordance with the structure of the White Paper e.g. Planning, Licensing, Conservation, Fisheries and Marine Management Organisation (MMO) in that order.

Planning in the marine area.

We note the following features of the White Paper with regard to planning:

- Planning in this context means “undertaking forward-looking activities to create policy statements or plans” which is to be regarded as distinct from the “planning control” system on land where permission is sought for various types of development. Marine development consents will be covered separately under “marine licensing” (ref. White Paper, section 4.3) .
- Planning in the marine context will be governed by a “marine policy statement” issued by the UK Government, namely Defra, and agreed by other Departments of State (ref 4.4) This “policy statement” will set out short and long-term objectives for the marine environment with the goal of sustainable development in mind (ref 4.15).
- The “marine policy statement” will have several strategic goals aimed at achieving sustainable development, and the “ecosystem approach” will be at the heart of the strategy (ref. 4.17). The ecosystem approach is defined as “the integrated management of human activities based on knowledge of ecosystem dynamics to achieve sustainable use of ecosystem goods and services, and maintenance of ecosystem integrity” (ref. White Paper glossary, p. 159).
- The precise content and objectives of the “marine policy statement” will reflect the priorities of the UK Government and devolved administrations (ref. 4.24), and all decisions made

in the marine area about use of the sea and its resources will be made in accordance with that “marine policy statement” (ref. 4.85)

- All practical matters involved in the marine planning process – the detailed rolling out and delivery of the planning process which result in “marine plans”- will be devolved to the Marine Management Organisation (ref. 4.99), but the Marine Management Organisation (MMO) will not formulate policy itself. The planning process (MMO) will inform policy formulation, but not determine policy formulation. Policy formulation will remain the direct responsibility of the UK Government and devolved administrations (ref. 4.91).
- Once the “marine policy statement” has been determined/ revised by the UK Government, it will result in a series of “marine plans”, which will implement the policy statement in specific areas, using information about spatial uses and needs in those areas. (ref. 4.4) The collection of this information and the delivery of these marine plans for specific areas will be the responsibility of the MMO and a small number of “marine planning steering groups” based on representatives from local marine interests and organisations (ref. 4.102 and 4.104).
- The UK “marine policy statement” will identify the future spatial requirements of certain activities - such as energy, protection of biodiversity, transport, mineral extraction, major infrastructure and defence needs – and these spatial requirements will inform the creation and delivery of marine plans (ref. 4.26).
- The objectives and goals of the marine planning system (marine policy statement) will not be written into the legislation. This is to ensure that objectives and goals of marine policy remain adaptable (ref. 4.23)
- Although not explicitly stated in the White Paper, it appears that the UK Government’s “marine policy statement” will cover the UK Territorial Sea adjacent to England, Wales and Northern Ireland i.e. 12 nautical miles [Scottish Territorial Seas will be covered by the Scottish Parliament], along with UK offshore waters from 12 to 200 nautical miles or the median line between countries. It will also include the UK Continental Shelf where this extends beyond 200 nautical miles, but in this area legal jurisdiction relates only to the seabed and subsoil and therefore site and species protection will only be possible for seabed species and habitats in this area - i.e. beyond 200 nautical miles (ref. White Paper, sections 6.17 and 6.18).
- Upon issue or revision of the “marine policy statement” marine plans will be created to cover the whole of UK waters (ref. 4.44), and these plans will consider all human activities and associated infrastructure, and all natural resources, features and processes (re. 4.52).
- These marine plans will be formulated to take a view over 20 to 25 years and will be reviewed at least once every 6 years in order to ensure that they are up to date (ref. 4.72).
- Marine plans will be formulated with stakeholder involvement, and some elements of the process could be subject to an Examination in Public as occurs in planning procedures on land (ref. 4.66).

We welcome the introduction of planning procedures into the marine environment. These procedures are long overdue and their need is essential.

We recognise the distinction between a “marine policy statement” and a “marine plan”. We believe that this distinction is correct, and it permits political responsibility to be distinctly located and to evolve.

We believe that marine plans are adequately scoped, both in terms of the human uses and the natural resources/features which they encompass.

We believe that it is correct for marine plans to be drawn up by an independent agency of government [Executive Non-Departmental Public Body (ref. 8.93) – the Marine Management Organisation], and that this procedure will involve wide stakeholder participation. We also believe that the time frame of these plans – 20 to 25 years – and their periodic review – at least once every 6 years – is correct.

However, we believe that the UK Marine Bill should also:

○ ***Incorporate a number of clear objectives into the body of the legislation. In particular, we wish to see an obligation upon all successive governments:***

1. To observe the “ecosystem approach” [as defined in the White Paper] in all “marine policy statements” (see further comment and recommendation below on the “ecosystem approach”).

2. To ensure that all decisions by government relating to UK seas have, as a strategic objective, the achievement of “good environmental status” (ref. EU draft Marine Strategy Directive, 2005), and that the UK legislation incorporates a definition of good environmental status.

○ ***Require the UK Government to locate political responsibility for all marine affairs - planning, licensing, conservation, fisheries and Marine Management Organisation (MMO) – within a specific Department of State, known as the Ministry for the Sea, with a Secretary of State at Cabinet level. This ensures:***

1. That political responsibility is clearly defined and located.

2. That there is proper integration of responsibility and management for all marine affairs. This will ensure an integrated and strategic approach to the political and administrative management of UK seas.

○ ***To formulate and attach to the legislation a protocol which formally explains the “ecosystem approach” to marine management. Whilst the definition in the glossary of the White Paper is correct – “the integrated management of human activities based on knowledge of ecosystem dynamics to achieve sustainable use of ecosystem goods and services, and maintenance of ecosystem integrity” – we believe that it is essential that the legislation should codify the principles upon which this approach to marine management is based and thus record the principles which will, therefore, be employed in the planning process. Central to these principles are:***

1. The interdependence between predator and prey species.

2. The need to take account of interactions between different parts of the ecosystem, and the fact that managing a single aspect of the ecosystem, either exclusively or with specific emphasis, will not deliver long-term sustainability.

3. *When using sustainability as a goal of management, it must be recognised that economic and social sustainability (relating to human activity) can only be achieved if the practices permitted by the management regime are environmentally sustainable.*
4. *Management practices must not be didactic (insisting upon or imposing a certain regime). Rather, they must be adaptive and capable of learning from experience and the act of management/intervention.*
5. *Management must establish a series of indicators by which to measure the success/failure of management practices. Ideally, these indicators should incorporate thresholds so that the need to support or alter management practices is signalled.*
6. *Management must be founded on robust science and observe the precautionary approach. Such management must have as its objective the restoration, promotion and maintenance of biodiversity. And, such management must recognise all the various human uses of the ecosystem in question.*
7. *The precautionary approach should be founded on the principle that no activity is allowed to occur until it can be shown that no damage will result from that activity. It should not be founded on the reverse i.e. any activity may occur until there is reason to believe that it may cause damage, although proof remains unavailable. The former version is a strong interpretation of the principle, the latter a weaker interpretation. The management regime should use the strong version. It is upon this strong version of the principle that environmental impact assessments should be founded.*
8. *Management should recognise that it is not possible to manage the marine environment. Our knowledge and understanding of this environment and its processes is simply too limited. Rather, the purpose of management is to manage human activities and their effects on the ecosystem, not to manage the ecosystem itself.*
9. *The management of human activities must always be based on protecting the resource in the long-term, and not on protecting the economic gain in the short-term.*
10. *Fishing, like other extractive activities, should be licensed and conform to the ecosystem-approach to management.*

Licensing in the marine area.

We note the following features of the White Paper with regard to licensing:

- The new licensing system (i.e. the permission given by Government or another authority such as the Marine Management Organisation) will “translate the objectives of marine plans into decisions to allow individual activities, subject to specific conditions, or bar them” (ref. White Paper, section 5.2).
- This new licensing system will be delivered by a new organisation, the Marine Management Organisation (MMO), and the MMO will be charged with promoting “integrated decision-making” which will display the following characteristics: accountability, consistency, targeting, proportionality and transparency (ref. 5.4).

- The relevant marine components of the Food and Environment Protection Act 1985 (FEPA) and the Coast Protection Act 1949 (CPA) will be merged (ref. 5.26), and both FEPA and the CPA will become subject to the EU Environmental Impact Assessment Directive (ref. 5.8).
- The new licensing system will establish a new objective of “one project : one licence” – this may not be literally possible in all cases, but this principle of simplification of the licensing procedure will be a cardinal objective (ref. 5.17), and when a licence application is determined the following question will be asked: “ On balance, do the benefits (social, environmental and economic) of this project outweigh the costs ?” (ref. 5.20).
- A comprehensive system to regulate all forms of dredging will be established (ref. 5.32).
- Regulation of offshore CO₂ injection and storage could be regulated by the MMO (ref. 5.89).
- A single licensing system for the construction of offshore renewable energy installations will be established, administered by the MMO (ref. 5.98).
- The Marine Management Organisation (MMO) will be the Government’s co-ordinator of marine expertise, being capable of delivering both well-informed decisions and holistic management of the seas [Oxford English Dictionary: Holism, the tendency in nature to produce wholes from the ordered grouping of units] and the giving of authoritative advice (ref. 5.123).
- The MMO will carry out all functions currently undertaken by Defra’s Marine Consents and Environment Unit (MCEU) and the Marine Fisheries Agency (MFA), including the regulation of aggregate dredging which has been transferred from the Department for Communities and Local Government to the MFA on 1st April 2007 (ref. 5.125).

We welcome the introduction of a new, reformed and modernised licensing system based on a new Executive Non-Departmental Public Body – the Marine Management Organisation.

We welcome the transfer of a broad range of licensing functions, currently located in several Government Departments, to the Marine Management Organisation.

We welcome the Government’s view that the Marine Management Organisation should be a co-ordinator of marine expertise, should be able to dispense authoritative advice, and as a result should be able to deliver well-informed decision making and holistic management.

We welcome the intention that this new system of licensing should be accountable, consistent, targeted, proportional and transparent.

We welcome the development of a comprehensive system to regulate all forms of dredging, and the administration of this system by the MMO.

However, we believe that the UK Marine Bill should also:

- ***Give greater clarity of definition to the process and principles upon which licensing decisions will be determined. It is not sufficient to say that the licensing system will be “ accountable, consistent, targeted, proportional and transparent”, and that the Marine Management Organisation will deliver “holistic management” of the seas. These are matters of process (the procedures by which decisions are made) and principle (the guiding principles upon which decisions are made), and these matters of process and principle need to be codified and attached***

to the legislation in the form of a protocol so that both the licenser (MMO) and the licensee (the applicant) and other interested parties know the fundamental procedures and principles by which licences will be determined.

○ *To give an example with respect to the above, marine aggregate dredging licence decision-making currently gives no detailed evaluation of the arguments (social, environmental and economic) that have been advanced in support/against the licence application, and when a decision is made not to grant a licence no information or decision is given at all – the licence application is simply allowed to lapse. We assume that similar procedures are followed in other areas of activity/licensing in the marine environment.*

Therefore, for decision-making to be “accountable, consistent, targeted, proportional and transparent” it is essential that both the process (the procedures by which decisions are made) and the principles (the guiding principles upon which decisions are made) are clearly enunciated and codified into a protocol attached to the legislation. If this is not done, there will be no guarantee that old patterns of behaviour in licensing will not persist; and, there will be no means available to the licence applicant and the other interested parties to verify that the licensing decisions have been objectively determined or that the procedures can be, where necessary, challenged and rectified.

Marine Nature Conservation.

We note the following features of the White Paper with regard to nature conservation:

- Marine nature conservation will take a two-tiered approach. One tier will be concerned with species and habitats requiring protection under European legislation [Wild Birds and Habitats Directives], and the other tier will be concerned with species, habitats and ecosystems that are domestically important (ref. 6.24). These domestic designations will be known as Marine Conservation Zones (MCZs), and the term “marine protected area” will refer to a conservation designation made under either European or domestic legislation (ref. 6.3 and 6.29).
- A suite of “Marine Objectives” (formerly referred to as “marine ecosystem objectives” in the Marine Bill 2006 consultation document) will be developed so as to clarify “what we want to achieve for marine ecosystems” (ref. 6.7), and objectives will be set for each marine conservation site by the statutory nature conservation agencies (ref. 6.47 and 6.48).
- These new marine nature conservation proposals will apply to the UK Territorial Sea [up to 12 nautical miles] adjacent to England, Wales and Northern Ireland [Scotland is currently considering what measures to adopt within its Territorial Sea]; UK offshore waters from 12 to 200 nautical miles or the median line between countries; the UK Continental Shelf, including areas beyond 200 nautical miles [on the Continental Shelf beyond 200 nautical miles the UK’s rights only relate to the seabed and subsoil, so site and species protection in this zone would be confined to seabed species and habitats] (ref 6.17 and 6.18).
- Marine Conservation Zones (MCZs) will be aimed at conserving or aiding the recovery of rare or threatened habitats, rare or threatened species, significant areas of geographically restricted habitats or species, important aggregations (hotspots) of marine species, areas representing the full range of UK marine biodiversity, areas important for the key life cycle stages of mobile species (spawning and nursery sites), areas contributing to all-round biodiversity and ecosystem functioning, and features of geological interest (ref. 6.31).

- Marine Conservation Zones, which will be in addition to sites designated under European legislation, are likely to be around 100 in number (ref. White Paper footnote, page 70), and will have amongst their purposes the provision of a “refuge within which marine species can flourish and help repopulate the wider environment” (ref. 6.33). Such refuges could also be used in conjunction with fisheries legislation to protect spawning and nursery areas for commercial fish stocks (ref. 6.35).
- Where it is important to allow Marine Conservation Zones to recover and develop (following damage), these MCZs may be given conservation objectives which prohibit all damaging or potentially damaging activities. These MCZs would effectively be “highly protected marine reserves” (ref. 6.50).
- The designation of marine protected areas (SACs, SPAs, Marine Reserves) under existing legislation does not, at present, take account of the socio-economic implications of designation. Accordingly, under the new legislation [UK Marine Bill] “we want to take a more flexible approach with MCZs, one that protects ecosystems and biodiversity without causing inappropriate economic or social impacts wherever possible” (ref. 6.40). As a result, before decisions of the designation of MCZs are made “ministers will need to satisfy themselves that appropriate consideration has been given to socio-economic considerations” (ref. 6.57).
- When considering the issuing of licences for specified activities, such as aggregate dredging or construction operations, “we wish to ensure that our approach to site selection delivers our biodiversity objectives whilst avoiding unnecessary conflicts with our social and economic goals. Wherever possible, we will aim to minimise the number of sites [MCZs] that are established in areas where there are high levels of potentially damaging industrial activity or existing licences for potentially damaging activities” (ref. 6.65 and 6.71).
- The Marine Management Organisation (MMO) will likely not be responsible for the selection or designation of Marine Conservation Zones (MCZs). However the MMO will provide advice to Natural England and the Joint Nature Conservation Committee on the socio-economic context for MCZ site selection. The Secretary of State at Defra will be responsible for formally designating Marine Conservation Zones (ref. White Paper, section 8.58).
- There will be a duty on all ministers, Government departments and other public bodies to act and operate in a way that contributes to the delivery of the site objectives for MCZs (ref.6.62).
- The above mentioned duty to contribute to the delivery of the site objectives for MCZs will also require fisheries authorities to regulate fishing activities so that they do not cause damage to MCZs, but the UK Government does not “have the competence to take action relating to matters covered by the Common Fisheries Policy”. Therefore, beyond 6 nautical miles, Defra would need to seek the agreement of the EU Fisheries Council to protect areas of national importance (MCZs) that are fished by fishermen from other European states (ref. 6.77).

We welcome the UK Government’s declared commitment to increased levels of nature conservation in UK seas up to 200 nautical miles.

However, we believe that the UK Government’s policy approach to marine nature conservation, as articulated in the White Paper, has a number of serious faults. Allow us to explain our reasoning:

In the case of spatial planning, licensing (up to 200 nautical miles) and fishing within Territorial Seas (up to 6 nautical miles) the UK Government is prepared to direct these activities

via a “marine policy statement” and then to allow the Marine Management Organisation and Sea Fisheries Committees to implement that policy in their respective areas. However, in the case of marine nature conservation, such a procedure will not be followed.

Rather, following advice from the statutory conservation agencies, the UK Government will itself determine whether domestic marine protected areas – Marine Conservation Zones – are to be established in specific places and for specific reasons. In other words, the UK Government will effectively retain control of all decision-making, delegating authority only in so far as it needs to collect expert opinion and ensure regulation of each site’s objectives. In short, the UK Government will assume/retain a “hands-on” approach to marine nature conservation.

Why does the UK Government need to do this, especially when it is prepared to delegate decision-making, based upon its “marine policy statement”, in the areas of planning, licensing and fisheries ?

The White Paper does not even articulate this specific question, let alone provide a clear answer. We find this failure to discuss and explain the fundamental issues regarding marine nature conservation very disappointing. Moreover, we note that the retention of control by the UK Government of site designation is not even referred to or discussed in the chapter on marine nature conservation. Instead, this key fact only emerges at the end of the White Paper in the final chapter on the Marine Management Organisation, section 8.58. We regard this as a lamentable, if not dishonest approach, to the discussion and statement of a key policy issue.

Although the UK Government appears to have taken steps in this White Paper to avoid the key questions surrounding the purpose of marine nature conservation and site designation, it is evident that the UK Government believes that social and economic objectives relating to the use of the sea should not be compromised by nature conservation (ref.6.57, 6.65 and 6.71 – see above).

We find this a very disappointing approach. Not only does it undermine our expectation that the UK Government has a strong commitment to marine nature conservation, it also displays a profound misunderstanding on the part of the UK Government concerning the role and purpose of the environment and conservation in the tripartite structure of sustainable development policy based on social, economic and environmental needs.

We go so far with the UK Government in believing that present policy regarding the use of UK seas and its resources is unsustainable, and that previous policy based on either “uncontrolled exploitation” (which has led to the collapse of fisheries and huge damage to biodiversity) or “total exclusion” (based on the designation of Conservation Areas and Reserves which effectively prohibit economic activity) is a management strategy that has failed.

Therefore, there is a need for a new strategy – a strategy that combines the protection of biodiversity and physical/biological resources with the essential needs of the human economy. In other words, a truly sustainable approach to human economic activity and our management of the seas. It is in this context that the “ecosystem-approach” to marine management appears to offer such promise. And, it is for this reason that we have recommended that the forthcoming UK legislation develops a protocol which defines the “ecosystem-approach”.

However the ecosystem approach means nothing, or very little, if we do not recognise two key principles in this approach. These are:

1. When using sustainability as a goal of management, it must be recognised that economic and social sustainability (relating to human activity) can only be achieved if the practices permitted by the management regime are environmentally sustainable.

2. Management must be founded on robust science and observe the precautionary approach. Such management must have as its objective the restoration, promotion and maintenance of biodiversity; and, such management must recognise all the various human uses, including fishing, of the ecosystem in question. Moreover, the precautionary approach should be founded on the principle that no activity is allowed to occur until it can be shown that no damage will result from that activity. It should not be founded on the reverse i.e. any activity may occur until there is reason to believe that it may cause damage, although proof remains unavailable. The former version is a strong interpretation of the principle, the latter a weaker interpretation. The management regime should use the strong version. It is upon this strong version of the principle that environmental impact assessments should be founded.

The UK Government is giving primacy to social and economic needs over environmental need, and ignoring the precautionary principle. This is a fundamental flaw in UK policy.

It is imperative that the UK Government understands that protection of the marine environment and its biodiversity is not the antithesis of its social and economic use.

It is imperative that the UK Government understands that one of the principal and primary purposes of marine nature conservation is to restore the fecundity of the sea so that its damaged and degraded economic and social potential can be restored; and, so that its social and economic use can be pursued on a sustainable and long-term basis. In short, marine nature conservation is the friend and ally of the social and economic use of the sea, not its enemy.

Moreover, as we have explained in our submission on the Marine Bill consultation dated June 2006, and as the Royal Commission on Environmental Pollution has explained to the UK Government in its 25th Report, 2004 (ref. chapter 8), marine nature conservation is the primary instrument by which we restore health to our seas and thus restore vitality to our economic exploitation of its resources. In this context, Marine Reserves, are the cardinal instrument in the formulation of a sustainable marine policy, and an extensive and flexible network of marine reserves – covering perhaps 30% of UK seas at any one time – need to be established and managed to this purpose.

If we do not develop and embrace such thinking, and if we continue to regard the environmental strand as a “cuckoo” in the nest of sustainable policy, then we will doom our seas to further degradation and our marine economy will further decline into bankruptcy.

It is for these reasons that we find the White Paper’s thinking on marine nature conservation to be so misguided and wrong-headed. The White Paper displays a fear of nature conservation – hence the need of ministers to retain an iron-grip upon it. Whereas, in reality, marine conservation is the instrument which, supported by sound practical thinking (i.e. a clear definition and implementation of the ecosystem-approach), can restore the ecological and economic health which our seas have lost – a loss which has been the imperative driving the need for the present UK Marine Bill.

Our message to the UK Government is do not be frightened of marine conservation. Embrace it. It is your friend and ally, and it can heal our seas. Please give admittance in your minds to this thinking, and allow it the chance to prove itself. You, like all others whose livelihood depends of the seas (effectively, all of us), will not be abused or disappointed.

Marine Fisheries Management.

We note the following features of the White Paper with regard to marine fisheries management:

- Sea Fisheries Committees, which manage inshore fisheries up to 6 nautical miles, will be equipped to deliver a fully effective management service (ref. 7.15).
- The core purpose of Sea Fisheries Committees (SFCs) will be “the sustainable management of fish stocks in the marine environment through an ecosystem-based approach”. This will encompass the impact of fishing on marine ecosystems, having regard to the precautionary approach; actively contribute to the rebuilding, where necessary, of living aquatic resources and their supporting ecosystems; and, optimise social and economic benefits from aquatic resources whilst ensuring their long-term sustainability (ref. 7.19).
- Sea Fisheries Committees will have a new membership structure, ensuring adequate representation for Local Authorities with a relevant coastline and all other interested parties (including, naturally, the fishing industry). Members of the SFCs currently appointed by the Secretary of State (Defra) will be appointed by the Marine Management Organisation (ref. 7.26 and 7.27).
- Sea Fisheries Committees will have power to create bye-laws for management purposes based upon a proper Regulatory Impact Assessment (ref. 7.32).
- Fishing has been identified as a significant pressure in coastal waters, and current inshore fishing practices may prevent these waters achieving “good ecological status” (under EU Water Framework Directive and draft EU Marine Strategy Directive). SFCs will be able to address this problem, and prevent damaging fishing practices such as towed fishing gears (ref. 7.45).
- Funding of SFCs will be via a levy on the constituent Local Authorities, supported by the ability of the SFCs to charge the cost of the operation of permit schemes on those who directly benefit. Recreational sea anglers would also be licensed (ref. 7.54, 7.56 and 7.107).
- The White Paper asserts that the EU has made a firm commitment to conserve fish stocks (i.e. in waters beyond 6 nautical miles) and thus protect the fishing industry through the development of the Common Fisheries Policy (ref. 7.125).

We welcome the intention of the UK Government to strengthen the role of the Sea Fisheries Committees in the sustainable management of fisheries in inshore waters via the ecosystem-based approach to management, and that the legislation will establish ecosystem-based management as a core purpose of SFCs.

We welcome the intention of the UK Government to allow the SFCs to manage their fisheries so as to control the impact of fishing on marine ecosystems, even forbidding damaging fishing practices, and to employ the precautionary principle in this management regime. These are key principles that we have requested for inclusion in the protocol for the definition of the “ecosystem approach” attached to the UK Marine Bill. It is heartening to see and believe that these principles will, henceforth, be applied to UK inshore waters.

We welcome the UK Government’s intention to enact the Bill so as to permit SFCs to restrain fishing practices in inshore waters which damage the “good ecological status” of those waters.

However, whilst recognising the great stride forward in soundly based management for UK inshore waters – a genuine adoption and use of the ecosystem-based approach – we remain profoundly depressed that the Marine Bill steadfastly refuses to address the problems of fisheries in our seas beyond 6 nautical miles.

We believe that there has been a failure of will by the UK Government in this regard.

An ecosystem-based approach to marine management means nothing – as the new regime for inshore waters implicitly recognises – if the management of our (offshore) seas does not embrace all human activity and, in particular, the one activity that has the greatest impact – namely, fishing.

We believe that it is simply not good enough for the UK Government to just say that the impact of fishing in offshore waters is the responsibility of the Common Fisheries Policy, and therefore not directly its own responsibility. The UK Government knows, as does everyone, that fishing practices in European seas, and UK offshore seas in particular, are immensely damaging and unsustainable; and everyone knows, including the UK Government, that the policies being pursued by the Common Fisheries Policy have consistently failed to remedy this very serious problem.

How much longer is the UK Government going to remain in denial over this issue ?

Why does the UK Government not take the opportunity to use this UK Marine Bill to launch an initiative to tackle the problem of unsustainable offshore fisheries, especially when it is using the UK Marine Bill to tackle this problem within UK inshore waters ?

Many people believe that a UK Marine Bill which does not tackle the issue of unsustainable offshore fishery practices, or lead to a separate UK policy initiative which does, is an item of legislation that is attempting to walk on only one leg. And, allied to our foregoing documentation of the failure of the UK Government to embrace marine nature conservation as a primary regenerative tool for the sustainable economic management of UK seas, there is a profound sense that this present UK Marine Bill is a huge missed opportunity and, most regrettably, will ultimately fail in its declared purpose to apply the ecosystem-based approach to the management of our seas along with the consequential restoration of their vitality.

Accordingly, it is our strong recommendation to the UK Government that the UK Marine Bill must address, or at least lay out a path by which to address, the problem of the management of fisheries in all UK seas. If the Bill does not do this, the only “sea change” that our seas will encounter is greater depths of ecological collapse.

A Marine Management Organisation.

We note the following features of the White Paper with regard to a Marine Management Organisation (MMO):

- The Marine Management Organisation will be an Executive Non-Departmental Public Body of Defra, with the Secretary of State at Defra responsible to Parliament for the activities and performance of the MMO and the public money spent by the MMO (ref. 8.93 and 8.100).

- The UK Government’s vision for the MMO is of a professional and proactive manager, trusted by all stakeholders to contribute to the sustainable development of the marine area, and the MMO will achieve this by developing forward-looking marine plans (ref. 8.4).
- In the context of the above objective and vision, marine planning is defined as “a way of considering and influencing decision-making about the range of activities occurring in the marine environment” (ref. 8.35).
- This above definition and implementation of marine planning will be based on a “marine policy statement” issued by the UK Government, and the MMO will act as a neutral organisation to deliver the marine plans born out of the principles in the “marine policy statement”. The MMO will deliver marine plans that implement the “marine policy statement” without bias to any particular marine stakeholder (ref. 8.31).
- In the development of detailed marine plans for coastal waters, the MMO will likely set up “Marine Planning Steering Groups” composed of local stakeholders in order that their knowledge and experience may contribute to the content of the plan (ref. 8.36).
- The MMO will act in a transparent manner, and the expertise amongst the MMO’s staff will create a body of marine knowledge and experience (ref. 8.29).
- The MMO will assume responsibility for licensing and enforcement under the reformed licensing regime (ref. 8.41).
- In waters beyond 6 nautical miles, the MMO will be responsible for the enforcement of both fisheries and marine conservation legislation (ref. 8.76).
- The MMO will not be responsible for the designation of Marine Conservation Zones. This responsibility will belong to the Secretary of State at Defra (ref. 8.58). However, the MMO will provide advice and information to Natural England and the Joint Nature Conservation Committee (who, in turn, advise the Secretary of State at Defra) on socio-economic issues relating to the selection of Marine Conservation Zones (ref. White Paper, Table 6, page 128).
- In establishing the Marine Management Organisation, the UK Government’s ambition is to create a holistic management system (holistic: the production of a whole from the ordered grouping of units, OED definition), where the MMO takes responsibility for the bulk of this management system. The UK Government regards the MMO as the key to the creation of this “holistic management system” (ref. 8.27).
- The Marine Fisheries Agency (MFA) and all its functions will be incorporated into the MMO (ref. 8.50).
- The Centre for Environment Fisheries and Aquaculture Science (CEFAS) will remain a separate entity from the Marine Management Organisation, partly because CEFAS has twice the number of staff relative to the MMO (the MMO will have approximately 300 to 350 staff, ref. 8.3), and partly because the new business plan for CEFAS involves providing marine scientific services to organisations outside government, and the UK Government believes that this new business plan will best be delivered to the common benefit of the MMO and CEFAS if the two organisations remain separate (ref. 8.115).

We welcome the UK Government’s intention to create a Marine Management Organisation which will deliver professional management of the UK’s seas, with the brief to draw up marine

plans for those seas (i.e. an ordered, transparent and neutral system of decision-making relating to present and future uses of the sea and, consequently, the related licensing of human activities). This is a vast improvement of the fractured and unaccountable planning and licensing system which operates at present.

We welcome the creation of local Marine Planning Steering Groups which will involve a wide range of local stakeholders in the formulation of these marine plans. This should lead to greater stakeholder ownership of decision-making.

We welcome the sense of professionalism, transparency and accountability that the UK Government intends to introduce to marine management in the spheres of planning and licensing, and its willingness to delegate this management process to an executive agency of government.

However, as previously mentioned, we profoundly regret that the UK Government has confined the MMO's role in nature conservation to the provision of advice on socio-economic issues to other agencies of government (Natural England and the Joint Nature Conservancy council and, via them, to Defra) and enforcement of site objectives. We believe that nature conservation is integral to socio-economic issues in terms of both the formulation of sustainable marine policies and the delivery of the ecosystem-based approach to marine management.

If nature conservation is not integrated into the MMO's own thinking about sustainable development (marine management), with its principles (as defined earlier by ourselves) informing and infusing the MMO's own decision-making, then the UK Government's belief that the Marine Management Organisation will deliver a "holistic system of marine management" is seriously flawed. Put simply, how can a "whole" be delivered from the ordered grouping of "units" when a key section of those units, in terms of ecosystem functioning and regeneration, is missing or incompletely incorporated ?

We are also concerned as to how the Marine Management Organisation will deliver "transparent" decision-making and how such accountability will be made manifest. Whilst we appreciate that local stakeholders may be involved in the formulation of local/area/regional marine plans, how are stakeholders going to be able to verify that the principles involved in these plans translate through to actual decision-making ? In other words, what happens if a marine plan states one thing and a licensing decision implements something different ? At the present time, the present terrestrial appeal system involving a planning inspector/public inquiry is not proposed for use in the marine sphere by this legislation. It is our recommendation to the UK Government that the Marine Bill should incorporate this particular appeal procedure. It would not be difficult, and it would give substance to the Government's ambition for transparency in marine decision-making.

There is a suggestion in the White Paper (ref. 4.66) that marine plans will be subject to an Enquiry in Public (EiP) as employed by the terrestrial planning system. Such EiPs are an important test of the robustness of plans and, given the UK Government's ambition that the MMO's work should be thoroughly expert and professional in character, we see no reason why this claim to professionalism and expertise should not be tested by an Enquiry in Public as it is in the land-based planning system. It is therefore our recommendation that the Marine Bill should incorporate such a provision.

Conclusion:

We greatly welcome the UK Government's White Paper and its intention to bring coherent and sustainable management to our seas, and we give our fullest support to this endeavour and

wish it success.

Our comments of support, reservation and recommendation are already detailed, and there would be little serious purpose in attempting to reprise them in this final section. However, there are a number of broad principles which we believe the UK Government's legislation (White Paper) needs to recognise if it is to achieve the enduring success which we wish it and to which it aspires.

Firstly, the ecosystem-based approach to marine management means very little if that system of management does not recognise the primacy of the ecosystem in the tripartite structure of social, economic and environmental issues if the definition of "sustainable development" . **Therefore we recommend the inclusion of a protocol within the Marine Bill which clearly states this primacy and defines, in the same protocol, the key principles of the ecosystem-based approach to marine management.**

Secondly, it is essential that nature conservation is seen as a primary tool for the ecological regeneration of UK seas leading to, based on this ecological regeneration, the sustainable economic and social use of our seas and their resources. At the present time, the proposed legislation does not recognise this positive role and principled purpose of nature conservation. **Therefore we recommend that the UK Government's White Paper returns to the drawing-board in this regard with the precise purpose of formulating the key role of nature conservation in the sustainable use and development of the UK seas.**

Thirdly, management on a sustainable basis of UK seas up to 200 nautical miles, using the ecosystem-based approach to management where the integrity of the ecosystem is regarded as fundamental in order to deliver long-term social and economic goals, becomes virtually meaningless if the management of fisheries is not integrated in a primary manner into this system of management. The UK Marine Bill (White Paper) appears to grasp this issue solidly with respect to inshore waters (up to 6 nautical miles) but fails to do so beyond this Territorial Limit. It simply says that these are matters for the European Common Fisheries Policy, in which the UK is a partner. It is clear to us, and we believe many others, that unless the UK Government acts directly to tackle this issue – returning fisheries in all the UK's seas to a sustainable basis – its wider objective of a holistic and sustainable system of management for all aspects of UK seas will be undermined and, ultimately, negated. **Accordingly, it is our recommendation that the UK Government should, through the UK Marine Bill, take such steps and seek such powers as are necessary to ensure that all fisheries within UK seas up to 200 nautical miles are returned to a sustainable level of exploitation and that their long-term management is founded on a ecosystem-based approach where the marine ecosystem and the precautionary principle take primacy of place.**

Fourthly, we believe it is imperative that political responsibility for marine affairs is clearly defined and accountable. At present this is split between a number of Departments of State and, despite this legislation, this will endure. **Therefore to remedy this serious flaw, we recommend the creation of a dedicated Ministry of the Sea which has responsibility for all marine affairs and UK seas. Clarity of leadership and responsibility is a prerequisite of good government.**

Yours faithfully

S. D. Eades
On behalf of MARINET,
Marine Network of Friends of the Earth Local Groups.