

Oceana response to Defra consultation on “Sustainable Fisheries for Future Generations” White Paper Sept 2018

Oceana

Oceana seeks to make our oceans more biodiverse and abundant by winning policy victories in the countries that govern much of the world's marine life. Founded in 2001, we are the largest international advocacy organisation focused solely on ocean conservation. Our advocacy is science based and we conduct at-sea research expeditions to document and protect marine environments, including expeditions in UK waters in 2016 and 2017¹². Since its founding, Oceana has won nearly 200 campaigns resulting in protection of more than 3.5 million square miles of ocean. We have offices around the world including Brussels, Madrid and a recently opened office in London.

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Executive Summary

While the UK Government has long championed sustainable fisheries policy, including the much needed and radical reform of the Common Fisheries Policy (CFP) in 2013, in practice the UK is still one of the worst offenders for continuing to fish above scientific advice³. Key fishing waters for UK vessels – such as North Western Waters and the North Sea – still have an overfishing rate of 36% and 41% respectively⁴.

However, we are very pleased the UK has reiterated its promises to deliver sustainable fisheries as we leave the European Union in ministerial and media statements and the Fisheries White Paper. The new fisheries bill must therefore contain clear duties in line with the ambition of the UK Government for the marine environment, fishing industry and UK markets. In particular, it is of paramount importance that the UK provides legal underpinning for the key sustainability objectives of the CFP. The new UK fisheries policy should be no less than the CFP standard that the UK was instrumental in helping develop, especially in terms of complying with the 2020 deadline for ending overfishing. But the UK must also go further and build on this progress and increase the level of ambition to become a model of sustainability and profitability in fisheries.

The opportunity to transition to more sustainable fisheries management will benefit the fishing industry and economy as well as environment. In our 2018 report "More Food, More Jobs and More Money" on UK fisheries Oceana estimated that setting science-based catch limits would result in at least an additional £319 million to GDP and 5,100 jobs - 1,400 jobs for fishers and 3,700 new jobs in related industries such as processing⁵. Hence each new fisheries-related job created in the United Kingdom, results in around 2.64 other jobs throughout the economy. This multiplier effects means that sustainable fisheries bring an economic stimulus in a range of sectors locally, regionally and

¹ <https://eu.oceana.org/en/press-center/press-releases/oceana-completes-5400-mile-underwater-study-north-sea>

² <https://oceana.org/press-center/press-releases/oceana-research-reveals-high-biodiversity-risk-british-waters-north-sea>

³ <https://neweconomics.org/2018/03/landing-blame-overfishing-atlantic-2018>

⁴ <https://stecf.jrc.ec.europa.eu/documents/43805/2092142/STECF+18-01+adhoc+-+CFP+Monitoring+2018.pdf>

⁵ <https://eu.oceana.org/en/publications/reports/more-food-more-jobs-and-more-money-uk-oceanas-recipe-fish-recovery>

nationally. With an Oceana YouGov poll revealing two thirds of the public are unconvinced Brexit will stop overfishing it would be good to demonstrate something positive for society who also want to see sustainable fisheries⁶.

However, unless the UK fisheries bill includes clear duties and deadlines to achieve sustainable fisheries we will never bridge the gap between the UK's ambitions and the status of UK fish stocks and the marine environment. The UK needs to fish below MSY by 2020, in fact it is now 36 years since UNCLOS included a requirement to achieve MSY.

We believe a comprehensive set of duties are needed on relevant and competent authorities if the UK is truly to achieve sustainable fisheries in the long term, including the following:

- The Fisheries Bill's core purpose should be to achieve **ecologically sustainable fisheries**.
- A duty to set fishing limits below the **maximum sustainable yield** exploitation rate (FMSY) (in order to restore and maintain fish stocks above biomass levels that can produce maximum sustainable yield (MSY)) with a deadline of 2020.
- **A duty to end discards and reduce by-catch** of non-target species and sexually immature fish through the discards ban and other technical, spatial and temporal measures.
- **A duty to implement the ecosystem-based approach** to fisheries management, so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised and ensure that aquaculture and fisheries activities avoid the degradation of the marine environment. This will also contribute to achieve Good Environmental Status.
- **A clear duty to deliver effective control, monitoring and enforcement including sanctioning schemes deterrent enough** to ensure the sustainable objectives are met, IUU fishing is prevented and a culture of full compliance is created.
- A duty to base decisions on best available **international scientific advice**.
- Where the data is insufficient to have an MSY-based assessment, include a duty to adopt **catch limits** according to the best available scientific advice that conserve those stocks while data is improved.
- **We would also like to see a clear duty to commit to the following key sustainability principles (as far as they are not referred to above), including the ecosystem-based approach, best available science and the precautionary principle.**
- A duty to collaborate with partnering coastal states to sustainably manage shared resources in **full alignment with international agreements** and the highest standards of transparency.
- A duty to only provide fishing authorisations to foreign vessels that are sustainable where there is a **surplus of allowable catch** that would cover the proposed fishing opportunities as required under Article 62(2) and (3) of UNCLOS. And vice versa for all UK flagged vessels accessing waters outside the UK.
- Include a duty for the MMO to ensure **fishing capacity** of the fleet is in balance with available fishing opportunities to prevent over-capacity.

In addition to the above measures, there are technical measures that will need to be updated for which powers and duties will need to be set:

- Minimum **conservation** sizes coherent with the maturity size of the species and therefore with the protection of fish juveniles

⁶ <https://eu.oceana.org/en/press-center/press-releases/poll-reveals-two-thirds-brits-unconvinced-brex-it-will-help-stop>

- Specifications for **design** and **use** of fishing gears that ensure sustainable exploitation patterns.
- Requirement for implementing the best available technology to reduce unwanted catches;
- Closed **areas** and **seasons to protect vulnerable species/individuals and marine ecosystems**; as well as juveniles during spawning
- Limitations on **by-catches** (catches of unwanted or non-target species)
- Duties to minimize the impact of fishing on the **marine ecosystem and environment**.
- **A duty to establish Fish Stock Recovery Areas** (or no take zones) to protect Essential Fish Habitats identified as key spawning and nursery grounds of commercially exploited species.
- **A duty to spatially manage damaging fishing activities**. Heavy bottom towed gear should only be permitted in zones where it is scientifically proven that they will not damage marine habitats.
- **A duty to establish no trawl zones** around the coast, which needs special protection from damaging gear to protect habitats and low impact fishing grounds.
- A duty to promote **responsible fishing practices** by providing incentives and preferential access to low impact fishermen or those who fish with the best available technology to minimise the impact of their activity. Incentives could be granted in form of fishing opportunities or restricted access to fishing grounds.

Finally, we believe there need to be duties to ensure control and **prevent IUU** and ensure that only legal and traceable imports of fish products can enter the UK market including:

- A requirement for all exports of fisheries products to the EU to be accompanied by a **catch certificate** that proves both the legality of the product ensuring that it is not derived from IUU fishing (as per [EU IUU regulation](#)). In fact, this could be strengthened to also require information on the fisheries import's compliance with the UK standards on sustainability, health, food safety and labour.
- Provisions that would allow for the **sanctioning** of UK nationals who benefit from or supply services to IUU anywhere in the world (so providing insurance to IUU vessels by British companies or a UK company being the beneficial owner of an IUU vessel) as well as infringement by UK flagged vessels that happen in international or non-UK waters (as per Article 39 of the EU IUU Regulation).

1. Setting our course

Q1: Do you agree with the proposed powers in the Fisheries Bill?

We agree with most, not all, of the powers proposed for the Fisheries Bill, but believe those related to sustainability and protection of the marine environment should be duties rather than powers or sustainable fisheries will never be achieved. While we appreciate for some issues there is a need for flexibility as Government does not yet know the outcome of the UK's negotiations to withdraw from the EU, since the UK has repeatedly stated it is fully committed to delivering sustainable fisheries there is no reason why these commitments should not be duties in law, rather than powers or delivered in a policy statement. A priority must be to ensure that the provisions that the UK is already subscribed to in the reformed CFP, which this Government fought hard for, are now clear duties in the bill. These should be a minimum standard to start building a new future for UK healthy marine ecosystems and wealthy fishing industry.

On the specific proposals for nine powers in section one of the white paper:

• **Control of Access:** As an independent coastal state under international law, the UK will have control over which countries' vessels may fish in its territorial sea and EEZ (Exclusive Economic Zone) to 200 nautical miles (or the median line). We support the UK providing access as long as it is only provided for vessels that adhere to UK and international fisheries conservation and management measures. The UK must only provide access to foreign flag vessels once they are in full alignment with the United Nations Law of the Sea (UNCLOS), especially Art. 62 (3) on surplus access and the 1995 United Nations (UN) Fish Stocks Agreement^{7 8} as well as UK fisheries laws. In practice, we recommend the UK to only allow access to UK waters to fishing vessels that can demonstrate their record of compliance with UK and International fisheries law, providing proof in their application that:

- There is a surplus of allowable catch that would cover the proposed fishing opportunities as required under Article 62(2) and (3) of UNCLOS
- Proof of record of compliance with UK and international fisheries conservation and management measures, a sanction for the vessel or its owner under UK law in the preceding 12 months precludes access to UK waters
- The fishing vessel is not included in an IUU vessel list adopted by a Regional Fisheries Management Organisation (RFMO)
- The fishing vessel and any associated support vessel apply the relevant International Maritime Organisation (IMO) ship identification number scheme
- All the necessary information regarding the vessel has been provided, including beneficial ownership and any support vessels

Additional criteria might be applied to vessels wanting to access UK waters, for example, access for vessels that adversely affect the UK's seafloor habitats, ecosystems, food webs or protected species should be reduced spatially or denied. A strategic environmental assessment is needed to determine

⁷ 1995 Agreement For The Implementation Of The Provisions Of The United Nations Convention On The Law Of The Sea Of 10 December 1982 Relating To The Conservation And Management Of Straddling Fish Stocks And Highly Migratory Fish Stocks (UN Fish Stocks Agreement)

<https://publications.parliament.uk/pa/ld201617/ldselect/ldcom/78/7806.htm>

⁸ <https://publications.parliament.uk/pa/ld201617/ldselect/ldcom/78/7806.htm>

those EU fishing methods that should not have access and UK vessels should be similarly restricted in space or method to reduce environmental impact too.

- **Equal access for UK vessels throughout the UK:** We only support the preservation of equal access for UK vessels throughout UK waters, if it is again based on sustainable criteria. We cannot continue to have the present situation where one region or county is working hard to develop sustainable fisheries only for this to be undone by a few vessels, from another region or country damaging habitats or important fishing grounds⁹. There needs to be a power in the bill to ban access for vessels, whether from a country within the UK, or an EU Member State, if these requirements are breached.
- **Setting fishing opportunities:** We support the necessary power to enable the UK to set quota to implement TACs made between the UK, EU and others providing it is accompanied by a duty to achieve MSY, but we do not support powers to deliver effort-based management. (We mention the latter as this section makes reference to setting fishing opportunities for “days at sea” as well as quota, but it is not clear if this is in reference to existing fisheries regulated via days at sea, or the proposals detailed later in the White Paper for trials in effort-based management (see our answer to Q10 below)).
- **Sustainability principles and sustainable objectives:** We strongly support reference to sustainability principles and sustainable objectives in fisheries management in the Fisheries Bill. However, if the UK is truly committed to sustainable fisheries we believe these should be detailed both as the bill’s core purpose and as duties not be relegated to a policy statement that will have no legal recourse. Key objectives and (quantitative) targets, such as achieving MSY, or by-catch limitations, must form core duties of the bill with clear deadlines - please see **Annex I** for a list of all the duties we believe should be in the bill.
- **Amending retained EU law:** While we understand the need for powers to amend retained EU law to ensure technical regulations can be amended and updated we are concerned about powers to amend CFP regulations and also the IUU regulations without clear duties to replace their various objectives in the Fisheries Bill. We believe that duties as well as powers are needed to ensure the UK manages our fisheries sustainably including duties to implement scientific advice and protect the marine environment and meets our international commitments when amending technical regulations or implementing international commitments. These must enable stakeholder involvement and parliamentary scrutiny.
- **Protecting the marine environment:** We fully support the proposal to amend the Marine and Coastal Access Act to ensure fishing can be regulated for the purpose of protecting the marine environment both in the inshore and offshore zones outside Marine Protected Areas; but again we believe this should be a duty not a power. This should include duties to designate Fish Stock Recovery Areas. We believe that the Devolved Administrations should create similar duties. Please also see our answer to Q14.
- **Cost recovery:** We support the proposal to improve the MMO’s ability to recover costs, providing as proposed, funds are used to encourage behaviour change in the industry and a responsible sustainable approach to the management of a public asset. Again, there should be a duty of the

⁹ <https://www.bbc.co.uk/news/uk-england-humber-17861822>; <https://www.walesonline.co.uk/news/wales-news/scallop-fishery-investigation-launched-cardigan-2033748>;

MMO to use such funds for enforcement, science and achievement of sustainable fisheries. It is not clear how the MMO would recover such costs – whether through licence fees, landings tax, auctioning quota etc and we would welcome a consultation on such measures and ensuring foreign vessels are subject to similar charges.

• **Auctioning quota:** We support powers to enable a scheme to be established to tender or auction English quota, if based on principles of sustainability and transparency we further elaborated under Q2 and Q9 below and also please note our response to Q8. We do not support quota being provided for effort-based management scheme or schemes that do not fully eliminate discards.

• **Grant-making powers:** We would support powers to modernise grant-making powers in England and duties to make them more sustainable. There has been considerable work on this in recent years to modernise the European Maritime and Fisheries Fund (EMFF) and make it more sustainable and we would expect the UK to take note of the issues and solutions that have arisen.

Q2: What are your priorities for UK negotiations with the EU on fisheries?

Oceana considers the future UK-EU negotiations critical in order to achieve UK's announced level of ambition to deliver sustainable fishing. As a matter of principle, we believe the UK and the EU should act in full respect of existing international legislation, in particular, but not limited to:

- UNCLOS specifically on what concerns Art 62(3) restricting access to fishing opportunities in a Coastal State's EEZ only when surplus is available.
- 1995 UN Fish Stocks Agreement¹⁰
- Part VI of the Common Fisheries Policy on the External Policy
- The FAO Agreement on Port State Control Measures

The International Plan of Action to prevent, deter and eliminate illegal, unreported and undeclared fishing ('IPOA-IUU') as well as the EU IUU regulation¹¹

The following three areas are particularly important to Oceana with regards to the future UK-EU and other coastal states relationship: access to UK waters negotiated with foreign states; access of foreign vessels to UK negotiated with legal entities under the form of private agreements or chartering agreements (e.g. quota auctioned); and access to the UK market by imported fish and fisheries products.

Access agreements with foreign states to access UK waters

According to international law any future access agreement to UK waters should only be made if the stock is managed at MSY level and has produced a surplus that can be as required under Article 62(2) and (3) of UNCLOS. Conversely, no bilateral fishing agreements should exist between both countries for stocks not exploited below MSY levels or for which the status has not being scientifically assessed. These principles should not only apply to bilateral UK-EU relationship but to all flag states willing to access fishing opportunities in UK waters under any sort of agreement.

¹⁰ 1995 Agreement For The Implementation Of The Provisions Of The United Nations Convention On The Law Of The Sea Of 10 December 1982 Relating To The Conservation And Management Of Straddling Fish Stocks And Highly Migratory Fish Stocks (UN Fish Stocks Agreement)

¹¹ [Council Regulation \(EC\) No 1005/2008](#) of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU Regulation)

The surplus should be identified, in a clear and transparent manner, on the basis of the best available scientific advice and of the relevant information exchanged between the UK and the foreign country about the total fishing effort on the affected stocks by all fleets fishing in UK waters. The determination of the resources available for access should take due account of scientific assessments conducted at the regional level as well as conservation and management measures adopted by relevant RFMOs.

Any non-UK vessel wishing to be authorised to fish in UK waters must meet the following criteria:

- proof of record of compliance with UK and international fisheries conservation and management measures, a sanction for the vessel or its owner under UK law in the preceding 12 months precludes access to UK waters
- the fishing vessel is not included in an IUU vessel list adopted by a Regional Fisheries Management Organisation (RFMO)
- the fishing vessel and any associated support vessel apply the relevant IMO ship identification number scheme
- there is a surplus of allowable catch that would cover the proposed fishing opportunities as required under Article 62(2) and (3) of UNCLOS
- all the necessary information regarding the vessel has been provided, including beneficial ownership and any support vessels

Any access agreement should also grant the UK full access to monitoring, control and surveillance data for those vessels wishing to fish under such an agreement. The UK must have full authority to inspect the vessels or their catches, prosecute the masters vessels or their owners under UK law in case of non-compliance and access to their vessel monitoring systems (VMS).

Ahead of any fishing activity under these access agreements, the full text of the agreement should be published online, as well as a list of authorised vessels. In addition, a public register should be created that includes the name of the vessels, their IMO number, the type of authorisation including target species or species group and the authorised time and area of fishing operation (start and end dates; fishing area). Oceana suggest to also include beneficial ownership, building on the leadership of the UK in terms of transparency of ownership with the creation of the register for “people with significant control”.

This constitutes the fundamental priority of Oceana concerning the framework that should govern the negotiations between the UK and foreign flag states on fisheries.

Access agreements for individual vessels to access UK waters

In the case of access individually negotiated access for EU vessels to UK waters, also called private or direct authorisations, and including chartering agreements, the same criteria as mentioned above should be met.

Access of EU or any other foreign fisheries products to the UK market

Thirdly, another priority for the UK-EU negotiations is to strengthen the commitment of the UK in the fight against IUU fishing. Oceana is concerned about the possibility that a non-harmonised and ambitious import control of fish and fish products could make the UK the target destination for IUU fish rejected in EU borders.

Therefore, we believe that a strong UK-EU cooperation should exist to that end. All imports of fisheries products from the EU, and any other exporting country, should be accompanied by a catch certificate that proves both the legality of the product ensuring that it is not derived from IUU fishing as well as the information on its compliance with the UK standards on sustainability, health, food safety and labour. Including this information on the eventual product would allow UK consumers to differentiate between imported products and UK caught or processed products. We therefore welcome the commitment to “seek to control our borders to prevent global IUU catches from entering our supply chain, including through continued international cooperation”.

In particular, in all the systems and cooperation already in place aimed at tackling the import of fish and fish products to ensure are legally sourced.

Q3. What are your priorities for controlling our waters after exit?

The adequate enforcement of the provisions that will be laid down in the new fisheries bill is to be crucial in achieving the sustainability targets outlined by the Government. In particular, emphasis should be placed in the exploitation of shared stocks inside and outside UK waters.

First of all, setting up an adequate framework to monitor UK waters, both for UK and non-UK vessels should be a key priority. We welcome the commitment that “effective and appropriate control and enforcement is in place in UK waters and for UK vessels fishing globally”. However, we regret the lack of detail provided for the future control system, especially as it is one of the main pillars of fisheries management. Especially on the future sanctioning system there is very little information. We have added the Oceana recommendations on the future sanctioning system to our answer to question 18.

From Oceana’s perspective, it will be vital that all UK vessels (fishing inside and outside UK waters) should have a system in place that allows for its position to be transmitted to the MMO or other relevant fisheries control administrations. For any vessels but the ‘low impact inshore fishing vessels’ a vessel monitoring system (VMS) that stores and transmits position data on regular intervals should be required so as Automatic Identification System (AIS) installed and fully operational on board. For the ‘low impact inshore vessels’ a requirement should be introduced to carry on board a mobile device which allows the vessel to be automatically located through recording and transmitting vessel position data at regular intervals.

The masters of any UK vessels should be required to keep an electronic fishing logbook for the purpose of recording fishing activities, regardless of the size of the vessel. For ‘low impact inshore vessels’ key data should be provided electronically before entry into port, for any other vessel this information should be transmitted at least once a day, or if appropriate after every haul to the fisheries monitoring centres. Oceana would recommend that the information listed in Annex 2 is mandatory. For ‘low impact inshore vessels’ the required information could be reduced.

Secondly, with regard to shared stocks inside and outside UK waters, the MMO (and devolved agencies) should be fully empowered and resourced to ensure effective monitoring control and surveillance systems are effectively implemented in a scenario that could be complex, with multiple flag states and vessels under different management and control systems exploiting the same stocks. Noting the multispecies, multinational aspects of these fisheries, specific measures are to be proposed to secure that sustainable objectives are not undermined by illegal fishing:

- **Inspection:** To effectively monitor the fishing activity on shared stock exploited by both UK and foreign flag vessels we would suggest establishing bilateral cooperation between the flag states and the UK to create joint inspection programs, that would include powers to sanction of vessels flying different flags participating in the fishery should an infringement be found. Ideally, in the case of EU, Norway, Iceland and Faroe Islands, we suggest a specific Joint Deployment Plan (JDP) of inspection under a cooperation agreement between the European Fisheries Control Agency (EFCA) and the MMO and devolved agencies.
- **Vessel monitoring:** To make IMO numbers mandatory for fishing or support vessels operating in UK waters. In addition, all fishing vessels in UK waters (both UK and foreign flagged) should be required to have a system in place that allows for its position to be transmitted to the UK control agency that transmits the vessel's position at regular intervals. See above for more explanation.
- **Sanctioning system:** To streamline the control efforts in UK waters, a harmonised control and sanctioning system should be applied across the different flag states participating in the fishery. This would avoid the situation where a vessel commits an infringement of UK fisheries law, but does not receive any sanction as the infringement is not recognised by its flag state, or might not exist in the legal framework of the flag state. In addition, this would allow the UK authorities to ban a non-UK vessel from fishing in UK waters once it received a sanction for an infringement of UK fisheries law. In addition, a comprehensive anti-IUU legal framework should be established, that allows for the sanctioning UK nationals who benefit from or supply services to IUU fishing activities anywhere in the world, as well as the sanctioning of non-UK vessels in UK waters. More information on the sanctioning system Oceana recommends to adopt can be found in our answer to Q18.
- **Information exchange:** To be able to fully monitor the fishing activities, a real time exchange of information on vessel movement, catches or landings is essential. We therefore recommend full cooperation of the relevant control agencies of the UK and any foreign flag state that is granted access to UK waters, taking advantage of the already existing tools (Electronic logbook and VMS) as well as the compliance record of the vessels.
- **Public register of vessels:** As mentioned in our answer to Q2 we recommend the UK creates a register of vessels authorised to fish in UK waters (both UK flagged as well as foreign flagged). We also recommend adoption of a UK transparency schemes for the EU fishing vessels authorised to fish in EU waters along with UK vessels participating in the same fishery where the following information should be publicly disclosed as a minimum:
 - Name of the vessel
 - The IMO number of the vessel
 - Period of validity the authorisation
 - Target species
 - Name, address of the quota holder (Physical person or legal entity regardless from the nationality of registration). Including information on beneficial ownership in full alignment with UK pioneering steps taken already in this sense (i.e. Creation of the Public Register for “people with significant control”)

- **System to monitor catches, landings and fish trade:** To ensure that TAC and quota are respected, we recommend to develop a system that not only allows to check the actual catches, with reported catches and landings, but also creates a system of inspection and control on land (that includes refrigerated lorries) to control the landings and fish trade across the borders of Ireland, UK, and France. All vessels fishing under the UK flag, or in UK waters should report their catches through an electronic logbook (for more information see above).
- **Ban transshipment at sea in UK waters and by UK flagged vessels:** With regards to the UK's EEZ Oceana also recommends to ban transshipment at sea extending this ban to all UK flagged vessels regardless from the area where they operate. A recent assessment by the UN Food and Agriculture Organisation (FAO) concluded that while there are legitimate and legal forms of transshipment, "there are also transshipment operations conducted for the sole purpose to circumvent existing controls on IUU activities. Many unauthorised and unregulated transshipment operations, including those in artisanal fisheries, have developed into major economic drivers that severely impact on vulnerable coastal communities and the long-term health of fish stocks. For those wishing to avoid scrutiny or open to corruption, transshipping, particularly at sea, could be a fruitful operation"¹². Similar to numerous other coastal states Oceana recommends to ban transshipment at sea in UK waters, and to only allow transshipment in designated ports subject to an authorisation.
- **Ratify the Agreement on Port State Measures To Prevent, Deter And Eliminate Illegal, Unreported And Unregulated Fishing (PSMA).** The PSMA was adopted in June 2016 and aims to lay down a minimum set of standard measures for Parties to apply when foreign vessels seek entry into their ports or while they are in their ports. Through the implementation of defined measures to ensure proper detection and investigation of IUU fishing, as well as follow-up actions, reporting and notification, the implementation of the PSMA not only ensures that fish caught from IUU fishing should be blocked from reaching national and international markets, thereby reducing the incentive for perpetrators to continue to operate, but also that other States, RFMOs and relevant international organizations are also made aware of the incident.
- **Quality of data on catches and landings.** Accurate and timely data is essential for ensuring the successful monitoring, management and sustainability of UK fisheries, in a transparent and effective way. It is used to deliver stock assessments, set catch quotas, and inform policy decisions. This knowledge is a prerequisite for achieving stock recovery, and long-term ecological, economic, and social sustainability. The collection and sharing of good quality data is essential to monitor quota use and fishery activity of the UK fleet worldwide as well as those non-UK fleets fishing in UK waters. In addition, by digitising and disseminating this information in a timely manner, we can improve transparency and help build trust among fishers, scientists, decision-makers and other stakeholders, a vital precondition for effective management and sustainability of our fish stocks. The 2017 European Court of Auditors (CoA)¹³ report noted the many exceptions, gaps and discrepancies that currently exist for data collection, sharing and reporting within the EU. The UK becoming an independent coastal state is an opportunity to address these problems.

¹² Global Study On Transshipment Regulations, practices, monitoring and control Food and Agriculture Organization of the United Nations Rome, June 2018 <http://www.fao.org/3/CA0464EN/ca0464en.pdf>

¹³ European Court of Auditors: EU fisheries controls: more efforts needed No 08/2017

Finally, it should be noted that several of the proposed provisions are also included in our answer to Question 4. These provisions should to apply to all foreign vessels accessing UK waters under a foreign flag as well as to UK vessels authorised to fish overseas.

Q4: What are your priorities for the UK's international role in fisheries (beyond the EU)?

As detailed above our priorities are for the UK to further champion sustainable fisheries and marine conservation and we welcome the UK's commitment to engage in international fora to further these goals internationally. We would particularly like to see the UK:

- Meet its **obligations under international law** including:
 - UNCLOS
 - Sustainable Development Goal 14
 - UN Fish Stocks Agreement (UNFSA)
 - UN Food and Agriculture (FAO) Code of Conduct for Responsible Fisheries
 - Environmental principles such as the precautionary principle
 - Agreement On Port State Measures To Prevent, Deter And Eliminate Illegal, Unreported And Unregulated Fishing (PSMA)

- Establish **comprehensive anti-IUU fishing duties** to ensure that only legal and traceable imports of fish products can enter the **UK market**. In 2016, the UK imported 730 thousand tonnes of fish (excluding fish products), with a value of £3.07 bn. The total value of the seafood imports were £3.21bn in 2017. It is therefore key to strengthen the commitment of the UK in the fight against IUU fishing. We would recommend establishment of a system where all imports of fisheries products caught by non-UK flagged are accompanied by a catch certificate that proves both the legality of the product. This certificate should also certify that the products were caught in compliance with UK and international fishing laws and are not derived from IUU fishing. Information that should be included in the certificate would serve to also assess the compliance of the product with the UK standards on sustainability, health, food safety and labour. This would allow the border inspection agents to assess the legality and compliance of a product. In addition, including this information on the origin and specifics of the product on the final product would allow UK consumers to differentiate between imported products and UK caught or processed products. We recommend for the catch certificates required to enter the UK market to be an improved version of the catch certificates currently required by the EU. Building on this system could facilitate its implementation as UK exports of fisheries products to the EU would require a similar certificate, as many companies or countries currently exporting to the EU are familiar with the system. In addition, as with the recent decision of the UK ban the sale of ivory products, the UK should assess if trade bans on certain exporting countries that fail to tackle IUU fishing should be employed by the UK. Both the United States of America and the EU have employed such a system as a means to improve global fisheries governance.

- Establish a system to stop imports of IUU products into the UK also addresses the duties of a market state as laid out in the International Plan of Action to prevent, deter and eliminate illegal,

unreported and unregulated fishing¹⁴. To meet the other duties as a state we would recommend establishing a legal framework that would cover the **duties of the UK as a flag state**, both nationally and internationally. UK flagged vessels fishing outside UK waters should be subject to monitoring by the UK control authorities to ensure the UK meets its obligation as a flag state as defined under UNCLOS where flag states have the sovereign right and duty to exercise its law enforcement jurisdiction over vessels granted its nationality. This would include 24/7 monitoring of VMS, daily reporting on catches as well as a legal framework that would allow the UK to sanction nationals who benefit from or supply services to IUU fishing activities anywhere in the world as well as infringement by UK flagged vessels that happen in international or non-UK waters. Such a legal framework is key to mitigate the risk for the UK to become a possible haven for non-compliant vessels and companies.

- For any **access agreements to fish in non-UK waters** the UK should commit to grant fishing authorisations in third country waters or on the high seas where scientific evaluation – which has been validated by scientific evidence by the competent Scientific Committee or Authority in each case - has demonstrated that there is a surplus of allowable catch that would cover the proposed fishing opportunities as required under Article 62(2) and (3) of UNCLOS.
- The UK to become a responsible **coastal state** that does all they can to prevent, deter and eliminate IUU fishing in those waters, as they will reap the benefits most directly. As a coastal State the UK also has the duty to only provide fishing authorisations for fishing opportunities to foreign vessels if a scientific evaluation demonstrating the sustainability of the planned fishing operations in line with the provisions of Article 62 of UNCLOS. Oceana’s recommendations on the UK’s role as coastal state are outlined in our answer to Q3.
- To secure the UK, without delay, as a full capacity Contracting Party to all the relevant RFMOs, giving the highest priority to the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the North East Atlantic Fisheries Commission (NEAFC). The first of them, being of critical importance for addressing sustainably the fishery of highly migratory stocks within UK waters.
- As an independent coastal, market, port and flag state we urge the UK to act on **IUU vessels lists** that are compiled by RFMOs. These IUU vessel lists are updated annually by RFMOs and the vessels included in these lists shall not be awarded fishing authorisations for UK waters, UK flagged vessels shall not in any way assist, engage in fish processing operations or participate in any transshipment with these listed vessels, shall not be awarded the UK flag nor shall any UK service provider provide services to operators connected to vessels engaged in IUU fishing.
- For any future **trade agreement** between the UK and a third country or preferential agreement conditionality should be included on sustainable fisheries and preventing IUU fishing. For instance, preferential agreements should be made conditional on ratification and implementation of key international conservation and management measures. Similarly, future Free Trade Agreements should include commitments on sustainable fishing as well as ratification and implementation of key international conservation and management measures.

¹⁴ FAO. International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing. Rome, FAO. 2001

- To ratify the **PSMA**. For more information see Q3.
- To ensure the **ratification the ILO's Work in Fishing Convention 2007** (Convention No. 188) to improve working conditions for workers in the fishing sector and in addition go further to create more ambitious and fairer working conditions.
- To maintain the UK commitment "to support and implement the WTO ambition to **end fisheries subsidies** that contribute to overcapacity, overfishing and illegal, unregulated and unreported fishing" at the World Trade Organisation with a special emphasis on a prohibition for subsidies that support the construction of fishing vessels or the importation of fishing vessels.

Q5: What are the fisheries policy areas where a common legislative or non-legislative approach (framework) across the UK is necessary?

It is essential that there are common duties in legislation in each country to achieve sustainable fisheries and an ecosystem approach, however, providing there is agreement on these key duties and they are mirrored it should not matter if they are in separate pieces of legislation. Below please find some of the key issues that will need a common legislative approach, but please also see Annex I with our priorities for sustainable fisheries which should be included in all UK legislation:

- International obligations – negotiation, signatory and compliance
- International treaties and trade agreements – if the UK does not have consistent policy it may prevent agreement with third parties.
- Shared stocks, through Quotas, TACs and duties to fish below MSY
- Ecosystem management, in particular ensuring compliance with measures taken to protect habitats and ecosystems.
- Anti-IUU measures
- Control measures – sanctions / landings
- Etc, please see our priorities in the summary above

Q6: Do you have any further comments relating to the issues addressed in this section?

2. Pursuing sustainable management: questions

Q7: Do you agree with the measures proposed to ensure fishing at sustainable levels?

The UK has been committed to fishing at sustainable levels and Maximum Sustainable Yield for over two decades under UNCLOS, 10 years under the Marine Strategy Framework Directive as well as 4 years under the Common Fisheries Policy and yet fisheries in UK waters are still not sustainable. Therefore there must be no flexibility in the law to fish sustainably – the time for talk is over, now is the time for compliance.

These commitments need to be legally binding now. We welcome:

- The commitment to continue to apply the principle of MSY when setting or agreeing TACs, but these must be clear duties, with a deadline of 2020 in the Fisheries Bill.

- The commitment to publish an annual statement on our assessment of the state of stocks of interest to the UK
- Establish Recovery plans and implement recovery plans for any stocks that fall below safe biological limits, to ensure they are restored to a healthy condition

However, we also believe a comprehensive set of duties are needed if the UK is truly to achieve sustainable fisheries in the long term – please see the list we have prepared in Annex I (and copied in our summary).

Q8: Do you agree that existing quota should continue to be allocated on an FQA basis?

The UK's FQA resulted in the privatisation of the public right to fish with quota then further confined to the few after the UK allowed them to be traded and sold including to foreign owners. Now it is estimated that just three companies own 61% of English quota and as such really ought to be investigated as possible monopolies by HM Government's Competition and Markets Authority, and almost half of English quota is held by firms that are also based overseas¹⁵. The concentration of quota results in the vast majority being in the hands of large environmentally-destructive industrial ships and foreign-owned vessels. Meanwhile, 77% of the English and Welsh fleet are less than 10 metres long, employing most of the UK's 12,000 fishers, yet owning just 4% of local quota¹⁶ making it more private monopoly than public asset¹⁷.

It is hence extremely surprising that Government wants to continue to completely maintain the status quo of FQA. Especially since it states "the fish in our seas, like our wider marine assets, are a public resource and therefore the rights to catch them are a public asset" "our aim is to ensure that UK communities derive maximum benefit from UK quota."

If Government really wants UK communities to benefit from this public asset then it has to address the FQA system and not maintain it. UK fisheries should necessarily and primarily contribute to generate income to UK GDP, and a new system should be put in place in order to guarantee that foreign investment into the UK fisheries sector delivers the highest standard of sustainability objectives. Low-impact fishers across the UK represented by Nutfa, have long campaigned for more quota and the direct economic and multiplier effects for local communities would benefit the UK as a whole rather than primarily going overseas. A radical shake up of existing quota allocation is needed and Brexit provides that perfect opportunity.

Q9: How should any additional quota that we negotiate as an independent coastal state be allocated?

Oceana support any additional quota being allocated on a different basis to the existing scheme. We believe this should be based on sustainability criteria and priority should be given to small scale low impact fishers and the reduction of discards when possible. However, it should still be quota driven. We are concerned about the move away from quota management and TACs towards effort management (days at sea). This is a retrograde step as it is a very basic form of fisheries management that has been proven not to be successful or sustainable.

¹⁵ The Times "Foreigners to net UK fish after Brexit" March 25 2018

<https://www.greenpeace.org.uk/governments-fisheries-white-paper-mean-bad-deal-local-low-impact-fishing/>

¹⁶ <https://www.theguardian.com/commentisfree/2018/apr/23/propaganda-brexit-fish-eu-britain-fishing-rights>

¹⁷ <https://www.greenpeace.org.uk/press-releases/government-fishing-policy-judicial-review-verdict-greenpeace-response20160118/>

Q10: Do you agree that Defra should run a targeted scientific trial of an effort system in English inshore waters?

No, Oceana do not agree with proposals to reintroduce effort-based management system in English waters as this has previously been proven to be incapable of delivering sustainable fisheries and in fact will do the reverse and lead to more overfishing. We believe this is a retrograde step and running a trial a waste of time and resources. It will also be impossible to combine two different management methods of TACs and effort management. And for shared stocks effort management would be impossible. The real issue here is that quota is in the hands of too few large vessels leaving small scale fishermen lacking in quota.

Q11: Do you agree with our proposals to explore alternative management systems for certain shellfisheries in England?

We support the proposal to explore alternative management systems for some shellfisheries in England to make them more sustainable, though not the proposals themselves until we have more details on the technical measures. We would be particularly keen to explore technical measures such as spatial management of shellfisheries, in order to allocate zones where only potting for lobster and crabs can occur and zones for more damaging shellfisheries such as scallop, oyster and mussel dredging. The latter should be spatially confined to small areas due to the adverse impacts on habitats and other fisheries and not be permitted over reefs and other vulnerable habitats. Examples of existing such management include the South West Inshore Potting Agreement, where no bottom towed gear is allowed and scallop dredging zones off France and the no trawl zones around Portugal and Ireland.

Q12: Do you agree that there is a case for further integrating recreational angling into fisheries management?

Yes, angling needs to be managed due to its impact on some stocks (e.g. bass), whilst also recognising that it is primarily a sustainable activity. The sector provides considerable socio-economic gain of around £2.1 billion p/a¹⁸ and provides another good reason for effective management of commercial fisheries due to the economic impact of mis-management.

We support the proposals for:

- Integration of recreational and commercial fisheries management.
- Given that recreational fisheries can impact on fish stocks, additional management measures for them are needed too. The first step for proper angling management should be the ban on sales of fish catch from anglers and the ban on using professional fishing gears. Daily bag limits and limitations of the fishing effort also need to be implemented.
- Given resources for fisheries management are very limited, any proposals to increase management of recreational angling should be in addition to existing resources and not at the expense of commercial fisheries management resources. Additional management of recreational angling could be funded by angling licenses. Licensing would also provide an opportunity for increased surveys, regulation, education and monitoring of this sector. Regulators should also make better use of coastal communities who often have information

¹⁸ Defra. Sea Angling 2012: A survey of recreational sea angling activity and economic value in England.

on illegal or commercial angling.

- We support some additional fishing opportunities and quota being allocated to recreational fisheries.
- We support management of some stocks specifically for the recreational angling sector only.

The economic importance of the recreational angling sector with its one million users also provides additional incentives to manage commercial fisheries sustainably - in order to deliver the socio-economic benefits of recreational angling.

Q13: Do you agree with the proposed package of measures and initiatives to reduce wasteful discards?

We welcome the statement in the White Paper that “The UK Government remains fully committed to ending the wasteful discarding”. As the White Paper states it was UK Ministers that championed the discards ban and we believe the UK should continue to implement the landings obligation. We believe to reflect this there must be a clear duty “to end wasteful discards in the Fisheries Bill by 2019”. We are therefore concerned that the White Paper goes on to state “The Fisheries Bill will therefore propose powers for the Secretary of State to establish a scheme to encourage compliance with the landing obligation and minimise wasteful discarding”. A “power” is not sufficient, it must be a “duty”; nor is mere “encouragement”, it should say “ensure” and nor is it sufficient to “minimise” discards, the commitment must be to “end discards”. As the landings obligation deadlines were 2015 for pelagic species and 2016 for demersal species with the obligation fully in force by January 2019 we see no reason to renege on these commitments and measures going forward. Regardless of the stock in question, under no circumstances can illegal discarding be tolerated, nor can fishing mortality be allowed to increase beyond MSY exploitation rates¹⁹.

The White Paper highlights a few issues with the current landings obligation, issues we recognise such as that of “choke species”. We therefore recognise the desire to address these issues and note the proposal for a charge that is at least equivalent to the catch’s commercial value where fishers cannot find quota to set against their catch. However, we cannot support this without further information on how this will reduce discarding and overfishing, rather than contributing to it.

Q14: Do you agree with the proposed approach to protecting our marine environment in relation to fisheries including the powers proposed in the Fisheries Bill (see section 1.2)?

We strongly welcome the recognition in the white paper that “Sustainable fishing not only requires stock management and protection of vulnerable Marine Protected Area (MPA) features, such as seabed habitats, cetaceans and seabirds, but also taking account of wider marine ecosystem impacts.”

We fully support those proposals in section 1.2 of the White Paper which will lead to further protection of the marine environment, but believe they should be duties, rather than powers. We particularly support the proposal to amend the Marine and Coastal Access Act to ensure fishing can

¹⁹

<http://image.pewtrusts.org/lib/fe8215737d630c747c/m/1/NGO+Position+Recovering+fish+stocks+and+fully+implementing+the+Landing+Obligation.pdf>

be regulated for the purpose of protecting the marine environment both in the inshore and offshore zones outside Marine Protected Areas. We believe that the Devolved Administrations should create similar duties.

Defra references the measures they introduced under the Marine Strategy Regulations, but the European Commission has just reported for all Member States that the measures for Descriptor 6, seafloor integrity were largely just confined to Marine Protected Areas and “As a result, a significant proportion of seabed habitats occurring outside of spatial protection areas and which are impacted by human activities, will likely remain largely unaddressed by Member States”²⁰. The need to take additional measures is hence essential and proposals welcome.

We suggest a strategic environmental assessment (or an assessment more similar to a habitats regulations assessment) should be undertaken of all fisheries in UK waters to assess which have an adverse affect on our ecosystems. Fisheries should be assessed against impacts on the three key biodiversity descriptors of the Marine Strategy Regulations Descriptors D1 Biodiversity, D4 Foodwebs and D6 Seafloor integrity. A matrix could be produced, similar to that produced for the management of fisheries in MPAs. Activities that have an adverse affect on one or more of the three Descriptors should be spatially managed to reduce their impact or even halted. For example:

- Fisheries using destructive fishing gears like heavy bottom towed gear including scallop dredging and nephrops fisheries due to their adverse affect on habitats and ecosystems should not authorised or restricted spatially. Where permitted they should be spatially managed and confined to areas where it is scientifically proven they will not adversely affect the habitats.
- Fisheries that target species that are key species in the food chain and hence the health of other commercial fish populations and marine wildlife such as sandeels, sprat, pilchard and herring. These fisheries should be managed according to the ecosystem approach to ensure their function in the ecosystem.
- Fisheries that cause considerable by-catch or discards rates, such as pair trawling and pulse fishing, should not be permitted in UK Waters.

Q15. What opportunities are there for the sector to become more involved in both the provision and direction of science and evidence development needed for fisheries management?

While we would encourage fisheries managers to make use of all forms of data, including that provided by on board monitoring of industry activity, this should be in addition to and not a substitute for best available, peer reviewed advice conducted by respected fisheries scientists. We believe the UK should stick to ICES advice for the stocks for which it is available, both as the best available science, especially for straddling stocks to avoid conflicting advice.

Q16. Do you have any further comments relating to the issues addressed in this section?

3. Resourcing the new approach: questions

Q17: What would be your priorities for any future funding for the sector or coastal communities?

²⁰ European Commission. COM(2018) 562. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL. Assessing Member States' programmes of measures under the Marine Strategy Framework Directive Brussels, 31.7.2018

We recognise the gap in finances that will occur as the UK loses its £40 million + p/a from the European Maritime and Fisheries Fund (EMFF) as detailed in the White Paper. We support the commitment in the white paper that any future scheme should be based on sustainability criteria in line with the new approach to fisheries management. We also welcome the specific mention of the need to ensure any subsidies contribute to the WTO ambition to end fisheries subsidies that contribute to overcapacity, overfishing and illegal, unregulated and unreported fishing. Specifically, the commitment made by the EU in their mandate for the WTO negotiation on fisheries subsidies on July 6²¹, which has been endorsed by the UK to “prohibit subsidies that support the construction of fishing vessels” or the importation of fishing vessels should be maintained. Subsidies for the construction of fishing vessels have proven to cause overcapacity, and the additional fishing opportunities that may become available to the UK in the future should in no case be accompanied by subsidies for the construction of new vessels.

Q18. Do you have any further comments relating to the issues addressed in this section?

4. Partnership working: questions

Q19: How far do you agree with our future vision to pursue a partnership approach with industry and others for sustainably managing fisheries?

In principle we support an approach that engages and consults Government’s partners in the industry, NGO and marine science communities. However, we would need to see the details to ensure that such proposals were not too heavily weighted towards a small section of industry as we understand was the case with the Seafood Industry Expert Group. We would also be concerned about any regulatory or scientific advisory roles being delegated to industry bodies. We believe it is important to keep Government’s regulators and scientific advisors separate from the roles of industry bodies and the industry themselves.

Q20. Do you have any further comments relating to the issues addressed in this section?

As mentioned above, setting up an adequate framework to monitor UK waters and UK flagged vessels should be a key priority. We welcome the commitment that “effective and appropriate control and enforcement is in place in UK waters and for UK vessels fishing globally”. However, we regret the lack of detail provided for the future control system, especially as it is one of the main pillars of fisheries management. We are especially concerned that there is not a section on penalties or sanctions for infringements of fisheries rules.

A 2017 Court of Auditors Report on Fisheries Control found that in Scotland “fines were rarely applied and preventive measures were implemented more often than actual sanctions. When applied, financial penalties were decided by the public authorities within the interval set in the national legislation, taking into the account the economic benefit. Limited use of points system (not applied consistently and not in all cases of serious infringements).”²²

An effective inspection system is one of the key factors in ensuring that fishing activities remain sustainable and the long-term future of the sector is assured. For the UK imposing sanctions at effective, dissuasive and proportionate levels, and ensuring that these sanctions take into account

²¹ WTO Negotiating Group on Rules Advancing Toward A Multilateral Outcome On Fisheries Subsidies In The WTO European Union TN/RL/GEN/181/Rev.1 6 July 2017

²² European Court of Auditors: EU fisheries controls: more efforts needed No 08/2017

the damage done to the marine environment, are crucial steps to ensure that fisheries management objectives are met.

Engaging in illegal activities is often profitable and fishers engaged in illegal activities will continue as long as their revenue exceeds their costs. Because of their lower operating costs, fishers engaging in illegal activities gain an unjust economic advantage over legitimate fishers. It is therefore key that sanctions are deterrent, low fines risk that the offender perceives sanctions as a basic cost of doing business.

An effective sanctioning system is also a duty under international law. The United Nations Convention on Law of the Sea stipulated that the flag state has the sovereign right and duty to exercise its law enforcement jurisdiction over vessels granted its nationality. In addition, the UK signed on to the Voluntary Guidelines for Flag State Performance which determines that a flag should 'take effective action against non-compliance by vessels flying its flag'. In 2015 the International Tribunal for the Law of the Sea²³ ruled that under UNCLOS 'the flag state must adopt the necessary administrative measures to ensure that fishing vessels flying its flag are not involved in activities which will undermine the flag state's responsibilities under the convention [UNCLOS]. It deemed that a flag state 'has the obligation to include in [its laws] enforcement mechanisms to monitor and secure compliance with these laws and regulations', and further directed that 'sanctions applicable to the involvement in IUU fishing activities must be sufficient to deter violations and to deprive offenders of the benefits accruing from their IUU fishing activities'.

Oceana therefore recommends the UK to adapt a sanctioning system in which certain infringements are immediately considered to be serious. Please see Annex 3 for Oceana's suggested list of serious infringements. In this way local enforcement agencies have clarity on the way forward. For the sanction to be deterrent, we would recommend to adopt minimum sanctions for these, to be set at at least three times the value of the fishery products obtained by the serious infringement.

A point system should be set up to ensure that repeat offenders risk losing their fishing licence after several serious infringements.

In addition, a comprehensive anti-IUU legal framework should be established, that allows for the sanctioning UK nationals who benefit from or supply services to IUU fishing activities anywhere in the world, as well as the sanctioning of non-UK vessels in UK waters.

Transparency is essential to assess if the future control measures is effectively implemented across the UK. Having access to up-to-date, public and reliable data on this topic will help civil society organisations and decision-makers to inform their views about the challenges that are met in the implementation of the rules and to propose meaningful ways forward. It will also ensure that stakeholders have trust in the system by making information on enforcement accessible, and thus contribute to the establishment of a culture of compliance across the UK.

²³ ITLOS Case 21 <https://www.itlos.org/en/cases/list-of-cases/case-no-21/>

Annex I – Key duties required in the Fisheries Bill

Oceana believe a comprehensive set of duties are needed on relevant and competent authorities if the UK is truly to achieve sustainable fisheries in the long term, including the following:

- The Fisheries Bill's core purpose should be to achieve **ecologically sustainable fisheries**.
- A duty to set fishing limits below the **maximum sustainable yield** exploitation rate (FMSY) (in order to restore and maintain fish stocks above biomass levels that can produce maximum sustainable yield (MSY)) with a deadline of 2020.
- **A duty to end discards and reduce by-catch** of non-target species and sexually immature fish through the discards ban and other technical, spatial and temporal measures.
- **A duty to implement the ecosystem-based approach** to fisheries management, so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised and ensure that aquaculture and fisheries activities avoid the degradation of the marine environment. This will also contribute to achieve Good Environmental Status.
- **A clear duty to deliver effective control, monitoring and enforcement including sanctioning schemes deterrent enough** to ensure the sustainable objectives are met, IUU fishing is prevented and a culture of full compliance is created.
- A duty to base decisions on best available **international scientific advice**.
- Where the data is insufficient to have an MSY-based assessment, include a duty to adopt **catch limits** according to the best available scientific advice that conserve those stocks while data is improved.
- **We would also like to see a clear duty to commit to the following key sustainability principles (as far as they are not referred to above), including the ecosystem-based approach, best available science and the precautionary principle.**
- A duty to collaborate with partnering coastal states to sustainably manage shared resources in **full alignment with international agreements** and the highest standards of transparency.
- A duty to only provide fishing authorisations to foreign vessels that are sustainable where there is a **surplus of allowable catch** that would cover the proposed fishing opportunities as required under Article 62(2) and (3) of UNCLOS. And vice versa for all UK flagged vessels accessing waters outside the UK.
- Include a duty for the MMO to ensure **fishing capacity** of the fleet is in balance with available fishing opportunities to prevent over-capacity.

In addition to the above measures, there are technical measures that will need to be updated for which powers and duties will need to be set:

- Minimum **conservation** sizes coherent with the maturity size of the species and therefore with the protection of fish juveniles
- Specifications for **design** and **use** of fishing gears that ensure sustainable exploitation patterns.
- Requirement for implementing the best available technology to reduce unwanted catches;
- Closed **areas** and **seasons to protect vulnerable species/individuals and marine ecosystems**; as well as juveniles during spawning
- Limitations on **by-catches** (catches of unwanted or non-target species)
- Duties to minimize the impact of fishing on the **marine ecosystem and environment**.
- **A duty to establish Fish Stock Recovery Areas** (or no take zones) to protect Essential Fish Habitats identified as key spawning and nursery grounds of commercially exploited species.

- **A duty to spatially manage damaging fishing activities.** Heavy bottom towed gear should only be permitted in zones where it is scientifically proven that they will not damage marine habitats.
- **A duty to establish no trawl zones** around the coast, which needs special protection from damaging gear to protect habitats and low impact fishing grounds.
- A duty to promote **responsible fishing practices** by providing incentives and preferential access to low impact fishermen or those who fish with the best available technology to minimise the impact of their activity. Incentives could be granted in form of fishing opportunities or restricted access to fishing grounds.

Finally, we believe there need to be duties to ensure control and prevent IUU and ensure that only legal and traceable imports of fish products can enter the UK market including:

- A requirement for all exports of fisheries products to the EU to be accompanied by a catch certificate that proves both the legality of the product ensuring that it is not derived from IUU fishing (as per [EU IUU regulation](#)). In fact, this could be strengthened to also require information on the fisheries import's compliance with the UK standards on sustainability, health, food safety and labour.
- provisions that would allow for the sanctioning of UK nationals who benefit from or supply services to IUU anywhere in the world (so providing insurance to IUU vessels by British companies or a UK company being the beneficial owner of an IUU vessel) as well as infringement by UK flagged vessels that happen in international or non-UK waters (as per Article 39 of the EU IUU Regulation).

Annex 2

- (a) a unique fishing trip identification number;
- (b) the IMO and vessel identification numbers and the name of the fishing vessel;
- (c) the FAO alpha-3 code of each species and the relevant geographical area in which the catches were taken;
- (d) the date and, where appropriate, time of catches;
- (e) the date and time of departure from, and of arrival to, port and the duration of the fishing trip;
- (f) the type of gear, technical specifications and dimensions;
- (g) the estimated quantities of each species in kilograms live weight or, where appropriate, the number of individuals, including the quantities or individuals below the applicable minimum conservation reference size, as a separate entry; for all vessels except the “low impact inshore vessels” this information shall be provided per haul or per fishing operation;
- (h) estimated discards of live-weight equivalent in volume for any species
- (i) the conversion factors used;

Annex 3

The following activities shall constitute serious infringements:

- (a) fishing without a valid licence, authorisation or permit issued by the flag State or the relevant coastal State; or
- (b) falsifying or concealing markings of fishing vessel or fishing gear, identity or registration of a fishing vessel; or
- (c) concealing, tampering with or disposing of evidence relating to an investigation; or
- (d) obstructing the work of officials or observers, in the exercise of their duties; or
- (e) transshipping without the required authorisation or where such transshipment is prohibited; or
- (f) conducting transfer operations in breach of UK Fisheries Law or the applicable conservation and management measures adopted by regional fisheries management organisations; or
- (g) transshipping from or to, or conducting transfer operations with, participating in joint fishing operations with, supporting or supplying vessels, engaged in IUU fishing as defined by FAO, in particular those listed in the IUU vessel list of a regional fisheries management organisation.
- (h) being involved in the operation, management, ownership of, or being hired on, a vessel engaged in IUU fishing, in particular those listed in the IUU vessel list of a regional fisheries management organisation or supplying services to operators connected to a vessel engaged in IUU fishing; or
- (i) fishing in a restricted or closed area, or a fish stock recovery area, or during a closed season, or without or after attainment of a quota or beyond a closed depth; or
- (j) engaging in directed fishing, retaining on board, transshipping, transferring or landing species which are subject to a moratorium, a closed season or for which fishing is prohibited; or
- (k) being a vessel with no nationality and therefore a stateless vessel, in accordance with international law; or
- (l) using prohibited fishing gear; or
- (m) landing in ports of third countries without prior notification to the control agencies in the UK or landing fisheries products stemming from IUU fishing activities; or
- (n) not transmitting a landing declaration or a sales note

- (o) falsifying documents, data or information or using of falsified or invalid documents, data or information required under the rules of the UK fisheries law
- (p) conducting business directly connected to IUU fishing including the trade in, importation, exportation, processing, marketing, of fisheries products stemming from IUU fishing activities; or
- (q) manipulating an engine or continuous engine power monitoring devices with the aim of increasing the power of the vessel beyond the maximum continuous engine power according to the engine certificate.

The following activities shall constitute serious infringements depending on the gravity of the infringement in question which shall be determined by the competent authority

- (a) not fulfilling of obligations to accurately record and report data relating to fishing activities, including data to be transmitted by vessel monitoring system and prior notices, as required under the UK fisheries rules
- (b) not making available a catch declaration or a landing declaration to the third country and not sending an electronic copy of it to the UK authorities
- (d) not fulfilling obligations related to the use of fishing gears
- (g) making available on the market fishery products in breach of the UK Fisheries rules
- (h) conducting recreational fishing activities in breach of UK fisheries rules or selling of catches from recreational fisheries; or
- (i) committing multiple infringements which together constitute a serious disregard of the UK Fisheries rules