

Written evidence submitted by Greenpeace UK (FISH02)

Fisheries Bill Committee

Greenpeace is a member of Greener UK and supports all the coalition's asks. This submission complements Greener UK's asks for the Fisheries Bill and should be read alongside the coalition's submission.

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1. Summary

Political context

- a. Fishing was an iconic issue throughout the Brexit referendum campaign. Many fishers voted to leave the EU on the grounds of wanting to take back control of the UK's waters and increase fishing opportunities and economic benefits for local fleets and communities around the UK's coastline. **The proposed amendment outlined below, backed by the Greener UK coalition, the New Under Ten Fishermens Association (NUTFA), the Scottish Creel Fishermen's Federation (SCFF), and Charles Clover's Blue Marine Foundation would deliver a win-win for local fishing communities and the environment.** It would create a race to the top, whereby sustainable fishing providing local employment is rewarded with greater access to fish in a system that can be delivered by the UK Government and devolved administrations regardless of the outcome of Brexit negotiations.
- b. The promise of a fairer deal made to so many fishers who voted leave is looking increasingly unlikely to be delivered through gaining access to additional quota from European waters. The latest EU Withdrawal Agreement document highlights how no agreement has been met on the access to waters/tariffs question, and the issue has been pushed back to a deadline of July 2020 to be solved. Reports in November suggested that the EU has toughened its stance on fishing, threatening that the UK could lose the right to extend its planned post-Brexit transition beyond 2020 unless European fishermen are given access to UK fishing waters "well before" the extension is triggered¹. Member states such as France and Denmark have made clear that restricted access to UK waters for their fleets are not acceptable and they will seek to make broader negotiations more difficult should such a situation arise, raising the risk of fishing being used as a bargaining chip.

Solution – reforming allocation of fishing opportunities

- c. A solution could be found through the UK Government deciding to **allocate the existing quota it already has rights over – as well as any new quota – according to transparent and objective**

¹ <https://www.ft.com/content/ad3b2b52-ef2e-11e8-8180-9cf212677a57>

environmental and social criteria, thereby recognising the fishery as public property held on trust for the people.

- d. The existing criteria for allocating fishing opportunities tends to give greatest weight to historic catch levels – which has given rise to an unequal situation, where a small number of wealthy families control vast swathes of fishing rights, to the detriment of local, low-impact fishermen. A recent Greenpeace investigation found that over a quarter (29%) of the UK’s fishing quota is owned or controlled by just five families on the Sunday Times Rich List, and half (49%) of English quota is held by companies based overseas. Whereas the majority of UK fishing boats (79%) are small-scale, the small scale fleet holds only 6% of UK quota.
- e. This pattern of concentrated fishing rights in the hands of just a few foreign-based or elite-owned fishing companies **holds true for fixed quota allocation (FQA) holdings overall, as well as for individual fish stocks – from mackerel, to cod, to plaice.**
- f. As a result, while the value of landings of the under 10s fleet increased by 17% from £92.2m to £113.5m between 2012-17 – largely resulting from shellfish landings (many of which are non-quota) – over 10 metre vessels have seen their real terms income increase more sharply². Over the same period, the value of fish landed by the over 10s rose by 29%, from £673m to £866.5m. The over 10m sector now lands 93.9% of all fish landed by UK vessels, and receives 88.4% of the income that is earned by the catching sector of the fishing industry. **The income inequality between the two sectors has therefore increased over time - and this must urgently be addressed through a new approach to allocating all types of fishing opportunities.**
- g. A legal mandate in the Fisheries Bill to prioritise environmental, social and local economic criteria in future allocations of fishing opportunities would **guarantee more quota for many boats in the under-10s fleet, as well as significantly boosting environmental sustainability.** Although there are exceptions, the small-scale fleet generally fish more sustainably and deliver more local economic and social benefits than many of the larger trawlers. For every fish caught, the small-scale fleet creates more jobs than their larger counterparts, landing 11% of fish by value in the UK in 2016, but employing 49% of all fishers. More than 90% of the small-scale fleet use ‘passive’ gears like fixed nets, hook and line, and pots, which are typically more selective (with less bycatch and discard risk) and have lower impacts on marine habitat. New Economics Foundation figures from 2015 suggest that a Europe wide implementation of quota reallocation on the basis of fleets that support more jobs per tonne of fish landed would create 102,000 jobs across Europe, several thousand of which would be in the UK³.

A phased transition – creating a race to the top for boats of all sizes

- h. This tweak in approach to allocating quota would **stand to benefit boats of all sizes, not just the smaller fleet.** Firstly, boats of any size could still benefit under the new system, just as long as they use sustainable methods and deliver benefits like local employment – which a significant portion of the large scale fleet already does. Secondly, in all likelihood, only a small proportion of opportunities

² <https://www.gov.uk/government/collections/uk-sea-fisheries-annual-statistics>

³ <https://neweconomics.org/2015/03/managing-eu-fisheries-in-the-public-interest>

would be redistributed to the smaller fleet, making a big difference to their livelihoods and the environment. Research indicates that simply doubling the quota pool for the UK's small, low impact fleet would return a vast majority to profitability⁴. Furthermore, any reallocated fishing opportunities for the smaller fleet would be implemented gradually over a number of years, as it would take time for the under-10s sector to respond to increased opportunities available to them and build up their businesses and supply chains accordingly. In turn, this would also provide a transition period for the some of the larger fleet to adapt to the new criteria and shift to more sustainable fishing methods, where necessary, to continue to be eligible for future quota. This would create a race to the top through incentivising better behaviour across the whole sector over time.

- i. **In addition, this approach would see European companies that control UK quota have to fight to keep this quota on the UK's terms – sustainability and local employment.** It is possible that some non-UK owned vessels might lose access to their quota, which could then be redistributed to local fishers. Unlike the current plan to take back control of our waters, the success of which is highly contingent on broader Brexit negotiations and the as yet not expressed willingness to compromise from several member states, this approach is compatible with the Common Fisheries Policy (CFP). The proposed tweak simply represents a strengthened version of Article 17 of the CFP, which Government already intends to transpose in the Fisheries Bill. **It could not therefore be challenged by members of the EU.**

Legal reassurance

- j. **The Westminster Government and fisheries administrations can feel confident from a legal perspective in proceeding with this change.** Even if the Government were to implement reallocation now while still remaining subject to the rules of the CFP and without enshrining such a change in a new Act of Parliament, there would be a very low risk of successful Judicial Review. The risk would relate to case law that determined, in a case brought by The United Kingdom Association of Fish Producer Organisations in 2009, that the Secretary of State had a very wide discretion about the allocation of quota. Yet it is only arguable, not certain, that there may be some property rights attached to FQA units that would require protection.
- k. When it comes to establishing the mandate to reallocate quota in the Fisheries Bill, Greenpeace's **independent legal advice has concluded that "a challenge to a new system of quota allocation enshrined in an Act of Parliament would be unlikely to succeed."** This is on the basis of two key points. Primarily, the mandate for reallocation would be placed in a new Westminster Act of Parliament. An Act of Parliament trumps any common law (law in the cases), and after Brexit, Parliament will be supreme. Secondly, although in the same 2009 UKAFPO case, the judge said that in his view FQA units could be deemed as possessions falling within Article 1, Protocol 1 of the European Convention on Human Rights (the right to property), he also said that FQA units had no value if no quota had been allocated, or they had been unused, and in any case the interference with the 'possession' of FQA units was in accordance with law and justified. Taken together, these two points mean that, in the scenario of mandating quota reallocation in UK law – as politicians are now considering in the Fisheries Bill – this is clearly compatible with domestic and international law.

⁴ Calculations from New Economics Foundation, available on request

2. Further notes on how fishing quota is currently allocated

l. Fixed Quota Allocations, which account for the vast majority of the UK's fishing opportunities, grant fishers fixed shares of the national catch quota. This system, heavily criticised for being unfair at the outset, hasn't been updated since the 1990s – quotas have since traded hands many times, and the system has become gradually more opaque. As a result of the existing system – and despite it being established in UK law that fish are a public resource – ownership of fishing quota has become increasingly consolidated among larger scale interests that often fish less sustainably. If smaller scale fishers want to catch more than their existing quota allows, they can lease quota from other fishers. However, lease prices are often prohibitively expensive, and prices are only getting higher as demand rises.

m. **A recent Greenpeace investigation found⁵:**

- The five largest quota-holders control more than a third of UK fishing quota
- Four of the top five belong to families on the Sunday Times Rich List
- The fifth is a Dutch multinational whose UK subsidiary – North Atlantic Fishing Company – controls around a quarter of England's fishing quota
- Around half of England's quota is held by companies based overseas – particularly from The Netherlands, Iceland and Spain
- More than half of the top 25 quota holders have directors, shareholders, or vessel partners who were convicted of offences in Scotland's £63m "black fish" scam – a huge, sophisticated fraud that saw trawlermen and fish processors working together to evade quota limits and land 170,000 tonnes of undeclared herring and mackerel
- One of the flagships of the "Brexit flotilla" – which sailed up the Thames in 2016 to demand the UK's exit from the EU – is among the UK's 10 biggest quota-holders
- Around 29% of UK fishing quota is directly controlled by five Rich List families. Some of these families have investments in dozens of other fishing companies, meaning companies holding 37% of UK quota are wholly or partly owned by these Rich List families

3. Further detail on the proposed amendment for the Fisheries Bill

- n. As a member Greener UK, Greenpeace welcomes the publication of the Fisheries Bill and, in particular, the inclusion of fisheries objectives on the face of the bill. However, alongside a lack of duty placed on authorities to deliver these objectives (see Greener UK submission to Committee for more information and proposed solutions), it also misses the opportunity to ensure fishing opportunities are allocated fairly and sustainably.
- o. Article 17 of the EU's CFP is retained and amended in the Bill in Clause 20 by stating that the relevant national authorities (the Secretary of State and the MMO) shall use transparent and objective criteria including those of an environmental, social and economic nature when allocating fishing opportunities. This is a good start – however, the existing wording says that the criteria to be used may include historic catch levels, as well as the impact of fishing on the environment and contribution to the local economy. **The inclusion of historic catch levels within the criteria, coupled with the lack of a mandate to prioritise environmental and social criteria has meant that historic catch levels have often ended up being the basis upon which quota has been allocated.** This has given rise to the inequitable and unsustainable distribution at present.

⁵ <https://unearthed.greenpeace.org/2018/10/11/fishing-quota-uk-defra-michael-gove/>

- p. Greenpeace therefore urges that Clause 20 is amended very simply to **require that the criteria to be used shall include the impact of fishing on the environment, and the social and economic contribution to the local economy, thereby recognising the fishery as public property held on trust for the people.** Such criteria should be **identified transparently and via engaging with experts and public consultation** at a regional and national level - but should at a minimum align with the definition of environmental in the Environmental Information Regulations. Social criteria could include: aiding new entrants to the industry, local land-based employment opportunities (port and processing), increased landings to UK ports, and local cultural significance.
- q. Clause 20 should also **require that the relevant national authorities provide incentives to fishing vessels using selective fishing gear or using fishing techniques with reduced environmental impact** – as opposed to this remaining optional, as is the case under Article 17 of the CFP.
- r. The amendments we are proposing for Clause 20 should **apply to all national fisheries administrations**, including Scottish Ministers, Welsh Ministers, the Northern Ireland department, the Westminster Defra Secretary of State, and the Marine Management Organisation.
- s. These amendments would be **consistent with the Fisheries White Paper**, which stated that the fish in our seas are a public resource, and that the Government’s aim is to ensure UK communities derive maximum benefit from UK quota.

4. Setting transparent and objective criteria of an environmental and social nature

- t. Environmental and social criteria should be identified transparently and via engaging with experts and public consultation at a regional and national level - but should at a minimum align with the definition of environmental in the Environmental Information Regulations
- Environmental criteria should be based on fishing techniques that mitigate damage to the environment, as defined under the environmental information regulations. Such criteria could include, but not be limited to: more selective gear including preference for passive over active gear, mesh size, weight of gear, history of compliance, fuel efficiency, bycatch mitigation (e.g. pingers, weighted lines, etc), pilot schemes aimed at improving best practice
 - Social criteria could include but not be limited to: aiding new entrants to the industry, local land-based employment opportunities (port and processing), increased landings to UK ports, local cultural significance including tourism, upkeep of local infrastructure
 - The Coastal Producer Organisation (CPO) (which represents small scale fishermen) should be given the power to manage (but not own) quota, including the non-sector pool (i.e. boats under 10 metres in length)
 - Under a new regime of transparent and objective environmental and social criteria for allocating fishing opportunities, there could be a peer-to-peer quota swapping system, administered by the CPO and/or other producer organisations, to manage scenarios of excess/ deficits of quota for certain fleet at different times

5. A rebuttal to effort-based systems (e.g. Days at Sea (DAS))

- u. The UK small scale fleet has not had it easy: poor policy and low quotas make fishing very challenging for a sector that has long been cast off by Government. This is why the fishing industry, the Conservative Party and Greenpeace campaigned together for the Common Fisheries Policy to be reformed and Article 17 to be introduced, giving power to member states to manage their own quota allocations. However, Government’s failure to implement these reforms – coupled with ambiguity in Article 17 wording, giving Government wiggle room to avoid action – led to continued distrust within

the industry who failed to reap the benefits of these reforms. It is therefore unsurprising that calls to overhaul the quota system are now at the forefront of the debate.

- v. However, **applying a simplistic effort-based system such as DAS will not help but hinder fishermen's ability to be sustainable and profitable.** The heart of the problem for this sector is the share of fish allocated to small scale fishermen (versus the share allocated to bigger commercial operators), and switching to Days at Sea would not solve the problem.
- w. This blunt policy tool has often led to an 'arms race' for fish where fishermen use their ingenuity to catch more and more fish with each 'Day' – leading to derby fishing, with fishermen often targeting high value species, leading to more and more restrictions to cap their daily catch. This inevitably ends up in fewer days, lower profits, poorer safety (as fishermen compete to fish their 'days' often in dangerous conditions) and less autonomy for fishermen.
- x. An effort control system would also be at odds with the neighbouring coastal states, making harmonised management of shared fish stocks far more difficult. Under the Faroese effort-based system, spawning stock biomass for key stocks has reduced by 20%. Nations that have trialled this system have moved away from it as it has failed to deliver economic or sustainability results.
- y. Fortunately, there are solutions that can be worked up in close partnership with fishermen and scientists and which can be tailored and refined to meet the needs of the UK fishing fleet. An amendment to require that fishing opportunities - existing and new - are allocated on the basis of transparent and objective environmental and social criteria would go a long way to addressing the problem.

6. Scottish-specific information on current quota allocation

- z. Scottish specific information is below:
 - Of all the countries in the UK, Scotland has the highest concentration of fishing rights in general - therefore meaning the fishing industry has highest potential economic value around Scottish shores. However, **Scotland also has the highest concentration of fishing rights in the hands of Rich List families. Five families on the Sunday Times Rich List own or control a third (33%) of all Scottish quota.** When taking into account minority stakes, companies wholly or partly owned by these families hold close to half (45%) of all Scottish quota
 - There is also a stark **inequality between the east and west coasts** – with the industrial fleet on the east having consolidated the vast majority of fishing opportunities, leaving communities in the highlands and islands to gradually decline. However, this doesn't mean there isn't huge potential for job creation and regeneration of coastal communities throughout the country. For example, the nephrops fishery (scampi or langoustine) is one of the most valuable fisheries for the Scottish economy, with a landed value of £75 million in 2014. The Nephrops fishery also contributes to coastal employment and is an important Scottish export. The vast majority (over 70%) of the fishing vessels targeting Nephrops are small scale creelers. Furthermore, creel-caught nephrops compared to trawl-caught have significantly greater value (£8.71/kg vs £4.80/kg)⁶. Reallocation of fishing opportunities to the nephrops fishery according to environmental and social criteria would, due to its more efficient use of fuel and greater employment opportunity, as well as the fact it uses passive

⁶ <https://neweconomics.org/uploads/files/Griffin-Nephrops-latest.pdf>

gear (rather than active, towed trawls), significantly boost local employment for creelers in deprived communities in the Highlands and Islands

- **Two of the Rich List families that have bought up huge stakes in Scottish fishing quota are English.** Manchester-based Jan Colam's company, Interfish, is the third-largest holder of Scottish quota (with 6.5%) through its ownership of the Northbay and Altaire fishing companies. Hull-based Andrew Marr International (owned by Andrew Marr and family) holds 2.5% of Scottish FQAs overall, and has minority investments in companies that control a further 8%. Andrew Marr (no relation to the broadcaster) is the single largest holder of Scotland's cod quota, with 7.4% of all Scottish cod FQAs
- **In 2012, four members of one of the Scottish Rich List families, the Tait family, received fines and confiscation orders totalling more than £800,000 for their role in landing undeclared fish as part of the "black fish" scandal.** Uearthed's investigation reveals that the Tait family's Klondyke Fishing Company is now the third-largest quota holder in the UK and has paid out dividends totalling £56m over the past five years. Peter Tait, 50, reportedly purchased Scotland's most expensive house in 2014
- The Christina S trawler was a flagship in the "Brexit Flotilla" of boats which sailed up the Thames with Nigel Farage in 2016, calling for Britain to leave the EU to improve access to fish. Ernest Simpson (71) and his son Allan Simpson (49), who are partners in the partnership that operates the vessel, were ordered to pay more than £850,000 in fines and confiscation orders for their role in the black fish scam
- The Christina S vessel partnership, in which English Rich List fishing baron Andrew Marr also has a stake, is the sixth-largest quota holder in Scotland
- In general, Scotland has seen a smaller proportion of its fishing quota bought up by foreign fishing companies than the other countries in the UK. Overall, 2% of Scottish FQAs are ultimately held by companies or owners based outside of the UK. However, this top line figure disguises the fact that overseas interests have much larger shares of Scotland's quota for certain stocks. For example, **more than half of Scotland's Hake quota is held by Spanish fishing companies.** The two biggest holders of Scottish plaice quota are Dutch companies – between them they hold nearly a quarter (23%) of Scottish plaice FQAs

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