The Committee will meet at 10.00 am in Committee Room 6.

1. **Item in private**: The Committee will decide whether to consider item 4 in private.

2. **Inquiry into the regulatory framework in Scotland**: The Committee will consider correspondence from the Subordinate Legislation Committee and the draft report on its inquiry into the regulatory framework in Scotland.

3. **Public petition**: The Committee will consider PE799 by the Community of Arran Seabed Trust (COAST) requesting that the Scottish Parliament supports COAST’s proposals to close an area of Lamlash Bay to all forms of marine life extraction (No Take Zone) and the rest of the Bay to mobile fishing gear (Marine Protected Area).

4. **Environmental Levy on Plastic Bags (Scotland) Bill**: The Committee will consider its approach to concluding Stage 1 consideration of the Bill.

5. **Aquaculture and Fisheries (Scotland) Bill (in private)**: The Committee will consider its approach at Stage 1.
The following papers are attached:

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<td>Note by the Clerk <em>Members only</em></td>
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<td>Note by the Convener <em>Members only</em></td>
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1. In autumn 2005 the Subordinate Legislation Committee (SLC) sought subject committees’ views on issues which arise when scrutinising statutory instruments. It invited committees to consider a number of issues and consultation questions to help the SLC formulate its plans for a Committee Bill to replace the current arrangements for scrutinising subordinate legislation.

2. The Committee made a submission to the SLC. The Convener subsequently gave oral evidence to a meeting of the SLC in November 2005 (along with conveners of other committees that have a heavy subordinate legislation workload).

3. The SLC has now published a draft report with recommendations. It has recommended that the current system of scrutiny should be replaced with a simplified system which is “fit for purpose and where scrutiny is open and transparent and within realistic timescales”. It has called the new system the Scottish Statutory Instrument Procedure (SSIP).

4. Given the innovative nature and wide-ranging implications of its proposals, the SLC has decided to consult on its recommendations before finally deciding what to propose to the Parliament. It has invited comments on the draft report by 22 September, and has written to all conveners seeking comments from committees. The SLC has set out specific questions on which it would welcome comments.

5. The Annex to this paper sets out the main features of the new system recommended by the SLC and some of the specific questions on which the SLC is asking for comments, along with (where appropriate) a note on any comments the Environment and Rural Development Committee previously made on the issue.

6. A full copy of the SLC report is available from the clerks or on-line at: http://www.scottish.parliament.uk/business/committees/subleg/reports-06/sur06-21-00.htm.

7. The Committee is invited to consider its response to the SLC.
Annex

1. New procedures for scrutiny by the Parliament

The SLC recommends that the various existing negative and affirmative procedures for the making, and parliamentary control of, subordinate legislation are replaced by a new Scottish Statutory Instrument Procedure (SSIP). In future all Scottish Statutory Instruments (SSIs) and other instruments laid before the Scottish Parliament should be subject to the SSIP. This means that the procedure applying to an instrument would not be specified in a parent act.

a) The **general SSIP** is that all instruments would be laid in draft for a period of 40 days. During this time the Parliament could determine that the draft should be ‘disapproved’ (i.e. should not be made). If the draft is not disapproved, once the 40 days have expired the Executive may make and bring into force the instrument without any further parliamentary procedure.

b) The SLC also recommends an **exceptional SSIP** where emergency or urgent instruments could be made before being laid but would be subject to being annulled within a specified period, such as 40 days after laying. An instrument under the exceptional SSIP should not normally be brought into force before it is laid. However, where it is necessary to breach this requirement, the Executive should be required to write to the Presiding Officer explaining why. The SLC would then consider this explanation.

An instrument may be defined as an emergency one in the parent act, and an urgent instrument could include situations such as one which needs to be brought into force at the same time as others elsewhere across the UK, but given the need for co-ordination may not be ready in time to be laid under the general procedure.

An instrument subject to the exceptional SSIP should be required to be laid before the Parliament as soon as practicable and, in any event, not later than 7 days after making. Where it is not laid within 3 days after making, the maker should be required to provide the Committee with a full explanation of the reasons for the delay. Standing Orders should also empower the SLC to report any instrument where it was not satisfied with the explanation given by the Executive.

Particular arrangements are suggested to allow for an emergency or urgent instrument subject to the exceptional SSIP to made and brought into force during the period of dissolution.

The SLC invites comments on these proposed procedures, including whether the SSIP should apply in all cases (i.e. instruments made under both past and future acts). It also invites comments on whether the exceptional procedure should be confined to emergency and other instruments of an urgent nature.

(\textit{The ERDC previously stated that the parliamentary procedure applying to an instrument should be determined in the context of scrutinising the parent act. It})
did not comment on whether the current negative and affirmative procedures should continue. However, the ERDC noted that the procedure applicable to a particular instrument can, at times, bear no relation to the degree of importance or controversy associated with it.

2. Timescales

The SLC has not recommended changing the 40-day period for parliamentary scrutiny. It recommends that a motion in the Parliament to disapprove a draft instrument or to annul an instrument may be taken by the Parliament up to 10 days beyond the 40-day period, provided the SLC or the lead Committee has made a recommendation for such disapproval or annulment within the 40-day period.

Where an instrument subject to the exceptional SSIP is brought into force before being laid or within a 21-day period after laying, the need for this should be explained in the Executive Note.

Where it is necessary for an urgent (rather than emergency) instrument subject to the exceptional SSIP to come into force before 21 days, the Executive should be required to write to the Presiding Officer explaining why it was necessary to do so. The SLC would then consider this explanation.

The SLC invites comments on these proposals, including on whether the period for disapproving a draft instrument should be 30 rather than 40 days.

(The ERDC previously stated that it supported the idea of increasing the time allowed for scrutiny beyond the usual 40 days, as it would inevitably improve scrutiny, particularly if combined with other improved management measures such as increasing formal notification of forthcoming SSIs.

The ERDC also noted that, in some cases, very significant problems and confusion could be created if the Parliament exercised its right to annul an instrument after the instrument has come into force and substantial action had already been taken on the authority of the instrument. The ERDC suggested that better advance warning of pending instruments might also address this issue. However, the Committee stated that a practical solution to the specific difficulties caused by the 21-day rule is required, without causing undue delay.)

3. Division between technical and policy scrutiny

The SLC recommends no change in the division between technical and policy scrutiny of subordinate legislation which is carried out by the SLC and the lead Committee respectively. It recommends that Standing Orders should provide a procedure which would allow both the SLC and the lead Committee to consider the draft or instrument simultaneously and in parallel and which would require both Committees to submit any report to the Parliament within the 40 day period. The SLC should be obliged to send its report to the lead Committee but the current requirement for the lead Committee to consider that report before submitting its own report should be removed.
The SLC invites comments on whether there should be parallel consideration of instruments by both it and the lead Committee.

(The ERDC previously noted that it usually has the option of only one or two meetings at which it can consider an instrument once the SLC has reported on it, which is not usually enough to allow time to decide to take evidence and then arrange an evidence session on a particularly complex or controversial instrument.)

4. Power of SLC to recommend annulment

The SLC invites comments on its recommendation that it should, in addition to the lead Committee, be able to recommend to the Parliament that a draft instrument subject to the general procedure should not be made (disapproved) or that an instrument subject to the exceptional procedure should be annulled. The SLC should only be able to do so where it considers that there are serious doubts about the legal validity of the instrument. Only a member of the SLC should be able to propose a motion to the SLC to make such a recommendation.

(The ERDC previously stated that on occasion it has found it difficult to interpret reports from the SLC. It would be helpful if the SLC could provide a clearer indication of how serious its concerns on the drafting of a particular instrument were. If technical concerns about an instrument are such that there is very serious doubt about whether it can be properly implemented, there may be a place for a mechanism for the SLC to consider a motion to reject the instrument. The ERDC also suggested that the SLC might perhaps consider providing clearer advice to subject committees on what the practical effect would be of annulling an instrument which implemented an EU obligation.)

5. Amendment of instruments

The SLC invites comments on its recommendation that it should be given the power to suggest to the Executive changes of a strictly technical nature to a draft instrument subject to the general procedure. Where the Executive gives effect to this suggestion and withdraws and re-lays the draft, there should be a procedure which would allow the amended draft to take the place of the original without “stopping the clock” (i.e. without having to start a new 40-day period). Standing Orders should enable the SLC to report an instrument to the Parliament on the ground that the Executive did not give effect to its suggested technical changes. However, neither the SLC nor the lead Committee should have any power to amend an instrument once it has been made.

(Previously the ERDC stated that, on balance, it did not believe that the Parliament should have a generalised right to amend subordinate legislation. It noted, however, that, where the SLC has pointed out (sometimes relatively minor) flaws in an instrument, current processes do not give the SLC any route to insist on the flaw being rectified in the original instrument. This can mean that the Committee has to scrutinise two instruments to give effect to the same policy intention, which could be seen as unnecessarily confusing for the public)
and causing unnecessary double-handling for committees. The ERDC suggested that it would seem appropriate to develop a way of taking on board minor amendments such as typos etc.)

6. Advance notice

The SLC invites comments on its recommendation that Standing Orders should provide that at the beginning of each 3 month period, the Executive should be required to provide the Parliament with a programme of the drafts or instruments which it plans to lay before the Parliament during that period. The programme should contain details of the likely content of the instrument and its parliamentary procedure. The SLC should be empowered to report to the lead Committee and to the Parliament any instrument which was laid and which was not in the current 3 month programme as required, and where it was not satisfied with the explanation given by the Executive.

(The ERDC previously stated that it favoured requiring the Executive to give a certain amount of formal advance warning to the Parliament of the likely content and timing of instruments before they are formally laid. Any such system should be accompanied by a formal method within the Parliament for referring these notifications to the relevant subject committee.)

7. Modified general procedure

The SLC invites comments on its recommendation that, in the cases of commencement orders and consolidation instruments, the general procedure should be modified so that a draft instrument should not be subject to consideration by a subject Committee.

Commencement orders
The SLC considers that commencement orders should be subject to the general procedure (at present they are usually not subject to parliamentary scrutiny). It suggests that it should not be open to those opposed to certain legislation to recommend that commencement orders should be disapproved on policy grounds. The SLC proposes that a lead Committee should not consider commencement orders except where the draft contains other provisions, such as transitional or consequential provisions. Where this is the case it should only consider those provisions.

Consolidation instruments
A “pure” consolidation instrument should be defined as an instrument which re-enacts subordinate legislation relating to any matter, subject only to any amendments which are necessary to produce a satisfactory consolidation. This should be laid in draft and should not be subject to consideration by the lead Committee but only by the SLC. If the SLC considers that the draft is not a “pure” consolidation, Standing Orders should empower the SLC to recommend that the draft be disapproved on the ground that it is not a valid “pure” consolidation.
A “rolling” consolidation instrument should be defined as an instrument which re-enacts a previously consolidated instrument but is subject to substantive amendments (that is amendments which are more than are necessary in order to produce a satisfactory consolidation). The instrument should be laid in draft and Standing Orders should require the Executive to indicate in the Explanatory Note to the instrument that it is a “rolling” consolidation. Standing Orders should also provide that—

- the instrument should indicate what are the substantive amendments which are being made to it in some distinctive way, such as by printing them in italics or in bold;
- the whole draft instrument, including the substantive amendments, would be subject to consideration by, and disapproval of, the SLC but only the substantive amendments would be subject to consideration by, and disapproval of, the lead Committee; and
- when the instrument is made, it should no longer indicate what the amendments are that are being made to it.

(The ERDC did not previously comment on these issues.)

8. **Definition of a Scottish Statutory Instrument (SSI)**

The SLC invites comments on its recommendation that all instruments made by the Executive under statutory powers, including directions, guidelines and codes of practice, even although they may not be “of a legislative character”, should be published in a form which renders them easily accessible.

(The ERDC previously stated that there is a need to develop a formal notification mechanism that allows subject committees to be aware of all instruments of a regulatory or legislative character [even if they are not SSIs], so it can decide to examine any it wishes.)

9. **Consequences of not laying an SSI**

The SLC invites comments on its recommendation that, if an instrument is made without either a draft having been laid in terms of the general procedure, or a made instrument under the exceptional SSIP is not laid within 7 days of being made, such failure should invalidate the instrument and it should be treated as never having had any legal effect as from the date when it was made.

(The ERDC did not previously comment on this issue.)

10. **Information accompanying instruments**

The SLC invites comments on its recommendations that the Parliament should not be consulted on all instruments in draft. Executive Notes which accompany instruments should include details not only of who responded to the consultation, but also the nature of the responses and the Executive’s response to these. Further improvements in the quality of Executive Notes should be
made by the Executive. Guidance on what Executives Notes should include should be given in the Standing Orders and by the Presiding Officer.

(The ERDC previously stated that improvement in the quality and consistency of the information provided by the Executive with instruments [e.g. on consultation responses and the practical effects of the instrument] would help subject committees to plan their scrutiny effectively.)

11. **Subordinate Legislation Committee reports**

The SLC recommends that it should produce and publish annually a report itemising commitments made by the Executive to the SLC following its reports, and detail the action that has been or has not been taken by the Executive.
PE799 – Proposals for No-Take Zones and marine protection in Lamlash Bay, Arran

Background note

1. The Public Petitions Committee (PPC) has referred PE799 to the Committee. The petition, by Tom Vella-Boyle, calls for the Scottish Parliament to urge the Scottish Executive to support COAST’s (Community of Arran Seabed Trust) proposals for a trial closure of an area of Lamlash Bay to all forms of marine life extraction [No Take Zone (NTZ)] and the rest of the Bay to mobile fishing gear [Marine Protected Area (MPA)].

2. The petition and selected correspondence (including a final response from the Executive dated 19 June 2006) are attached to this paper. This background note draws on a SPICe briefing prepared for the Public Petitions Committee in 2004.

Background

3. COAST is a community group which has been working on its aims of protecting and conserving Lamlash Bay for over ten years. The majority of its members live on Arran and represent approximately 20% of its population. It has consulted widely on its proposals, both locally and with fishermen, academics, politicians, SNH and the Scottish Executive.

4. Under the proposal, no fishing of any kind would be allowed in the no-take zone. Fishing with pots and creels for shellfish, and recreational sea angling would be allowed in the protected area, but other types of fishing with “mobile” gears which are towed along the bottom of the seabed i.e. scallop dredges or trawled nets, would not. The purpose of the trial would be to compare the effects on marine life in the no-take zone, the protected area and the “status quo” area outside the bay.

5. The aim of COAST’s petition is to allow marine life to regenerate from fishing activities in order to benefit the local marine environment, the local economy and (through spillover of species from the NTZ) the Clyde fishermen. COAST also wishes to protect a species of maerl¹ in the bay.

6. Two species of Maerl are listed in Annex V of the Habitats Directive² (92/43/EEC). These include Phymatolithon calcareum which is reported to be abundant around the West coast of Scotland and Ireland³. The Directive requires Member States to conduct monitoring programmes to measure the

¹ Maerl is the name for several species of slow growing, fragile red seaweeds that grow unattached on the seabed where there are specific growing conditions and incorporate chalk into their structure (calcification).
² Link to consolidated version of directive
³ Further information about this species
conservation status of habitats and species protected by the Directive. If they find that the conservation status of the species listed in Annex V is compromised as a result of this monitoring, they are required to take measures to ensure the conservation status of these species remains “favourable” (defined in the Directive). The Directive therefore affords the species listed in Annex V a lower degree of protection than it does for other species, e.g. for which the Directive requires Member States to designate Special Areas of Conservation (SAC).

7. The petitioner’s website⁴ explains that Maerl beds are sensitive to damage from trawling. They cite research which shows that the beds in Lamlash bay are currently in a favourable condition compared to other sites in the Firth of Clyde.

8. The petitioner proposes that Lamlash Bay could be the ideal site to test whether NTZ’s and MPA’s could be effective tools for fisheries management in Scotland. COAST proposed in its oral evidence to the Public Petitions Committee (PPC) on 22 December 2004 that this trial would last for a 10 year period and could be monitored with the assistance of COAST which has received training from the Marine Conservation Society in surveying and has undertaken its own research into existing NTZ’s and methods of monitoring them.

9. In its evidence to the PPC, COAST said that the fishermen who use static gear (pots and creels) support the petition’s proposals (with the proviso that the area under proposal is not large enough and should be extended out into the Clyde for full benefits from the trial) and a majority of those trawling the seabed with mobile gear are not supportive.

Progress of the petition

10. The PPC has considered written and oral evidence from the petitioners, and also written evidence from the Scottish Executive, Scottish Association for Marine Science, Scottish Natural Heritage, Clyde Fisherman’s Association, Clyde and South-West Static Association, Commercial Fishermen on Arran and Arran Sea Angling Association. The PPC also requested information from North Ayrshire Council (the authority responsible for implementing the biodiversity action plan in the area concerned) but the council did not respond. The PPC subsequently requested further information from the petitioner to comment on the responses listed above, and also asked for information from Professor Callum Roberts of the University of York, an expert in this field of marine studies, and the Scottish Executive. The PPC did not believe that all its questions about the petition had been answered and referred the petition to the Environment and Rural Development Committee.

⁴ http://www.arrancoast.co.uk
11. Scottish Ministers have powers to establish closed areas in inshore waters\(^5\) under the Inshore Fishing (Scotland) Act 1984. These can be temporary or permanent, and can also be limited to certain types of fishing. Many such closures are in existence around the Scottish coast to protect fish stocks and marine habitats and to resolve conflicts between fishermen fishing with different types of gear. However, the Executive states that ‘other legislative tools would be required to prohibit the extraction of other forms of marine life’.

12. In initial correspondence to the PPC, the Executive stated that it would be desirable to have the consensus of the fishing industry in the area on COAST’s proposals before it could implement them in legislation. This is not a requirement of the Act, which says that Ministers can make Orders establishing closed areas “after consultation with such bodies as they consider appropriate”.

13. COAST explained that it has endeavoured to discuss issues repeatedly with various fishing bodies and individuals but that it is unable to bring all the parties to consensus\(^6\). The Executive also believes that agreeing to COAST’s proposals for a trial could set ‘a precedent which might lead to a more general “squeezing out” of the fishing industry through multiple demands for fishing-free areas regardless of whether scientific, social and environmental analyses argue in favour of such areas’. The Executive also highlights that the measures proposed by COAST could ‘cut across our attempts to build a consensual approach to marine nature conservation which at present utilises statutory no take zones in areas which have been designated as a Special Area of Conservation’ (SAC).\(^7\) In this case, SNH has advised the Executive that Lamlash Bay does not meet the criteria for selection as a SAC.

14. On the specific subject of the maerl beds, the Executive highlights that not every occurrence of the species protected under the Habitats Directive is required to be protected legally and that it does not think the existence of maerl at this site gives it potential as a SAC although it may change that position once greater understanding of the Clyde area is achieved through various marine initiatives. The existence of maerl however has led to Scottish Water’s decision to re-route a sewage outfall pipe to avoid unnecessary impact.

15. The Executive lists various initiatives (such as the Inshore Fisheries Groups and the Scottish Sustainable Marine Environment Initiative pilot project in the Clyde) which it hopes will provide opportunities for COAST to discuss their proposals\(^8\). In his most recent correspondence on the petition, the Minister has also asked his officials to facilitate further discussions between COAST and local fisheries interests\(^9\).

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\(^5\) within the 12 mile limit around the coast
\(^6\) COAST’s oral evidence to the PPC, 22 December 2004.
\(^7\) Scottish Executive correspondence to the petitioners, 19 June 2006.
\(^8\) Scottish Executive correspondence to the PPC, 3 October 2005.
\(^9\) Scottish Executive correspondence to the petitioners, 19 June 2006.
Comments from third parties

16. Amongst the other written submissions to the PPC, COAST’s proposals are supported by all except Scottish Natural Heritage (SNH) and the Clyde Fisherman’s Association (CFA) which does not believe the area to be of sufficient importance to be a MPA and does not think the proposals would produce any benefits for marine conservation but would damage the fishing industry and any proposals for future MPA’s.

17. The CFA suggests an alternative approach where the proposed NTZ would be financially backed by the petitioner for the cultivation and laying of scallops, and the proposed MPA would be open to scallop dredgers under strict conditions, including gauging the effectiveness of the NTZ regeneration of scallop numbers. COAST’s later response to the PPC supports this proposal but thinks this approach should take place in waters around Carradale, a fishing village on the Kintyre peninsula.

18. The Arran Sea Angling Association (ASAA) and Scottish Association for Marine Science agree with COAST that large scale trawling and fishing has diminished the sea fish stocks available around Lamlash Bay. ASAA also comments that angling festivals around the Clyde have disappeared as a result with a knock on effect to the local tourist economy in communities like Arran. Professor Roberts states that decline of commercial fishing stocks in the Firth of Clyde indicates that the ecosystem there is unstable and prone to disease and could be remedied by creating MPAs free from fishing preferably covering a larger area than that proposed by the petitioners (30% of the Clyde estuary). Professor Roberts states that his research has shown that NTZ’s are an important component of MPA’s as a protection from commercial fishing and can contribute to fisheries. He states that, judging on research on NTZ’s in other countries, the Bay would quickly achieve importance after becoming a NTZ and would bring income from tourists as well as having conservation and fisheries value.

Conclusion

19. The Committee is invited to consider what action it wishes to take on this petition. If the Committee considers that the issues have been fully explored it may wish formally to conclude the petition. Alternatively, if the Committee wishes to take further evidence on the petition, the Committee is invited to agree its approach to this.
Public Petitions Committee - Information required for petitions to be displayed on the e-petitioner system

The Public Petitions Committee’s web pages include a number of specific pages dedicated to the e-petitioner system. Before a petition can be added to the system, the principal petitioner is required to submit the following information. The size limits indicated below are for guidance only, however, we do recommend they are adhered to for best presentation of your petition on a web page viewed on a typical PC screen.

Short Petition Title: no more than 10 words

| Trial of No Take Zone and Marine Protected Area in Lamlash Bay |

Principal Petitioner: name of organisation or person raising the petition and the date it will start to collect signatures (include both full names, e-mail if applicable, and abbreviations of organisations)

| COAST, [Community of Arran Seabed Trust] | secretary@arrancoast.co.uk |
| 29th September 2004 |

Full petition text:
The text should clearly and concisely state the request of the petitioner, showing clearly the nature of the remedy or action requested from The Parliament. To ensure easy reading and viewing of the petition text it is advisable for this to be not more than 15 lines of text, preferably less. All other background information can be put onto the “information” page.

The petitioner requests that the Scottish Parliament supports COAST’s proposals to close an area of Lamlash Bay to all forms of marine life extraction [No Take Zone] and the rest of the Bay to mobile fishing gear [Marine Protected Area]. COAST believes that this trial will enable marine life, including whitefish, flatfish and scallops to regenerate, ultimately benefiting the local marine environment, local economy and, through spillover of species from the NTZ, the Clyde fishermen.

Closing Date: date when the petition will stop collecting signatures and be submitted to the Parliament.

| 10 December 2004 |
This petition is by and on behalf of the Committee and full membership of 1205 [720 of which are Arran residents] of the Community Of Arran Seabed Trust [COAST].

COAST

c/o
The Secretary of COAST
Claveron
Lamlash
Isle of Arran
KA27 8NB

Tele:01770 600552

e-mail: secretary@arrancoast.co.uk
Information should include statement as to why this petition is needed and sources/links to background information. (Add information as HTML or plain text). If there are additional documents to be included send these as Word or pdf files (GIF or JPEG for graphics and photos)

It is the petitioner’s view that the Scottish Parliament has a duty under the EU Habitats Directive 1992, to protect species of maerl present in Lamlash Bay, particularly since there is a lack of candidate marine SACs in the Clyde.

No Take Zones and Marine Protected Areas have been used effectively overseas as fisheries management tools but to date have not been used in Scottish waters. It is the petitioner’s view that the Scottish Parliament has a duty to ensure that proven methods of fisheries management are used in Scottish Waters.

SEERAD have to date refused COAST’s requests, despite considerable support from Arran’s fishing community, stating that unanimity among all fishermen using the Bay is required. COAST submits that such an approach is undemocratic since an overwhelming majority of the other users of the Bay and the local community of Arran, support COAST’s proposals and that they are in the public interest for fisheries management.

COAST’s proposals require the imposition of a statutory instrument under the Inshore Fisheries [Scotland] Act 1984 and do not require further primary legislation.

It is not contentious to state that there has been a dramatic decline in fin fish stocks and the marine environment, in Scottish waters over the last 15 years. It is difficult to assess the causes but scientists agree that over fishing is a primary cause.

No Take Zones and Marine Protected Areas are used in the best managed fisheries of the world such as Australia and New Zealand. No such methods have been used specifically as fisheries management tools in Scottish Waters.

Lamlash Bay has been assessed as an ideal location for such a project by an independent assessment by Tom Howden, MSc Aquatic Resource Management, Kings College, London. [see attached as appendix 1]

COAST’s proposals are supported by Professor Calum Roberts of the University of York who is an acknowledged expert in the field. The University of York is ideally placed to assess the data from the Bay as it regenerates over time. The Marine Biology Station at Millport, Cumbrae have undertaken a scientific survey of part of the No Take Zone. [See attached as appendix 2 – para.3 page 8 should be specially noted] and are completing a survey of the whole Bay for COAST.

The existence, of unrivalled examples in the Clyde, of species [maerl] protected under EU Habitats Directive and the Ayrshire Bio-Diversity Plan, is an additional incentive. [see attached as appendix 3]

Local divers and members of COAST have been trained and monitored by the Marine Conservation Society of Scotland to carry out ‘Seasearch’ research and have carried out baseline Seasearch surveys of Lamlash Bay [see attached as appendix 4]. Seasearch is an accepted research programme financed and supported by SNH.

The COAST project is partly financed by voluntary contributions, SNH, The Esmee Fairbairn Trust, The National Lottery and DG fish of the European Union. Although the project is currently outside the ambit of North Ayrshire Council the Isle of Arran Local Plan supports conservation use of Lamlash Bay.
COAST's proposals could have a marked impact on the economy of the Isle. In the 1970's and 80's when regular angling festivals took place on Arran many people with families visited the Isle to take part [see attached as appendix 5]. There are also possibilities for increasing diving tourism and eco-tourism.

These represent a well rounded series of proposals supported at many levels.[A copy of the COAST Proposals are attached as appendix 6]

Summing up.

It must be remembered that fish and marine life are the property of all Scottish people. With inshore measures it is up to the Scottish Parliament to manage those stocks for future generations to enjoy and for future jobs and livelihoods. Unfortunately not all management can take place by consensus. Unless decisions are taken to investigate modern fisheries management techniques this generation of Scottish Politicians will be remembered as the ones who presided over the final destruction of Scottish marine life. Past generations can be partly forgiven because scientific information available today was not available then. Today's politicians have no such excuse.

COMMENT PAGE

Provide at least one comment to set the scene for an on-line discussion on the petition (about 150 words max).

Over fishing and destructive fishing techniques have been carried out in Scottish waters for too long. Local people and all stakeholders should have a say in the future of fisheries management. Scientific advice should be heeded and not ignored. It is in nobody's interest to extract fish and shellfish from the sea in such a manner as to affect its ability to replenish. That will lead to marine deserts.

No Take Zones have been used very effectively abroad as a management tool and should be trialled in Scotland. The broad base of community, fishermen, tourist, academic and government support make Lamlash Bay an ideal candidate for such a trial.

Contact (to obtain initial advice and agree content of e-petition)
The Clerk to the Public Petitions Committee,
The Scottish Parliament,

Template for e-Petitions
12th January 2004
APPENDENCIES

Appendix 1. Academic report on Lamlash Bay as an ideal location for a No Take Zone.

Appendix 2. Report from the Marine Biology Station, Millport, identifying maerl beds in Lamlash Bay. It classifies the area as “highly unusual and damage to the deposits may be damaging one of, if not the last, 90% live maerl bed in the Clyde Sea.”

Appendix 3. Scottish Natural Heritage leaflet on the importance of maerl

Appendix 4. Lamlash Bay Seasearch Report

Appendix 5. Copies of leaflets printed in the 1970s showing the worth of Lamlash Sea Angling Festivals to Arran.

Dear [Name],

SCOTTISH PARLIAMENT PUBLIC PETITIONS COMMITTEE: CONSIDERATION OF PE799

Thank you for your letter of 23 December, seeking the Scottish Executive’s views on the issues raised in the above petition. I attach a short paper setting out the Department’s views, which I am sending you in both hard copy and electronic format.

David Brown
Private Secretary
SCOTTISH EXECUTIVE VIEWS ON PE799

Background

1. The Community of Arran Seabed Trust (COAST) approached the Scottish Executive in 2002 with a request that fishing be prohibited in Lamlash Bay as part of a project to improve the marine environment. During initial discussions, the Executive encouraged COAST to work with Clyde fishermen to further develop the idea for the project.

2. The proposal for Lamlash Bay presents an issue which is typical of inshore waters, where different sets of stakeholders wish to see a small area utilised for different purposes. The approach that the Executive takes when tackling such issues is to act as facilitator in the first instance, meeting regularly with both parties, and helping them find common ground upon which to base a local level solution that is agreeable to all parties.

3. The Scottish Executive, together with Scottish Natural Heritage, has accordingly assumed a facilitation role in this matter, and has used its working relationship with the Clyde Fishermen’s Association to encourage them to engage with COAST. The Executive is conscious that the Association has offered a number of ways of working with the group but that it also has concerns about setting a precedent which might lead to a more general “squeezing out” of the fishing industry through multiple demands for fishing-free areas regardless of whether scientific, social and environmental analyses argue in favour of such areas. We are also aware that the fishing industry would find proposals such as COAST’s much more meaningful if they were justified as part of a wider management strategy for the fisheries of the Clyde.

4. One difficulty with COAST’s proposals is that there is some confusion about what they are trying to achieve. On some occasions the proposal is presented as a temporary trial to test the regenerative potential of marine life; on others as a long term measure to protect and restore the seabed. Similarly, COAST have assured us that they do not wish to impose their plans on anyone, but then on other occasions seem to wish the fishermen’s concerns to be disregarded. The Executive has met with and written to COAST a number of times, as has SNH, to try and help tease out what their real objectives are. COAST’s message has remained quite general thus far, essentially that they wish to try out a prohibition and see if it “works”, although they are not sure what success would look like. We wrote to COAST in September 2004 providing some very detailed guidance to help them think through what they were actually trying to achieve.

5. It is important to note that the Executive did not state that unanimity among all fishermen is required. The Executive has taken the position that for a short/medium term trial or longer term project, or other such voluntary path of action, it would be desirable to have the buy-in of the fishing industry in the area, and we would expect that general level of consensus to be achieved before introducing any legislative measures.

Protecting the marine environment

6. The concept of Marine Protected Areas (MPAs) is not new in Scotland, and different forms already exist for a variety of objectives, from conservation of biodiversity (e.g. cSACs) to protection of historic wrecks. The purpose and designation of MPAs for sustainable multi-user, conservation and fishery management purposes is currently under consideration in relation to the Scottish Executive’s response to the Prime Ministers Strategy Unit’s report, “Net Benefits – A sustainable and profitable future for UK fishing”. The purpose of MPAs has also been reviewed through a working group report to Government - “The Marine Nature Conservation Review”. The Executive will respond to both of these reports’ recommendations and consider how
designation of MPAs may be extended to those areas not presently covered by existing mechanisms, where such a requirement may be seen as necessary, in due course. There will inevitably be a need for a demonstration of the value of MPAs for fishery management, conservation and multi-user purposes and it is most likely to be effective if areas are identified within the context of a wider management strategy, chosen objectively on the basis of selection criteria, and not in response to ad hoc proposals.

7. Lamlash Bay does not have any particular designation attached to it (e.g. a Natura candidate Special Area of Conservation). There are some 31 marine cSACs in Scotland, and many of them coincide with fishing grounds. There are a number of difficult discussions with fishermen and others ongoing to ensure that the Executive meets its obligations under the Habitats Directive, while ensuring that we are taking into consideration the activities and interests of the fishing industry. Those are sensitive discussions and imposing a closure in an area where there are no such designations could undercut that process.

8. While maerl falls within the UK definition of an Annex I EC Habitats Directive habitats type it is not a legal obligation to protect every occurrence of the species throughout Scottish waters. The Natura network of protected sites has been set up to ensure that areas of highest quality and best preserved qualifying habitat are selected for designation as a cSAC (Annex 3 of the Directive contains criteria for SAC selection). The existence of maerl at this site is not in itself sufficient to merit proposal of the site as a potential SAC, although that position may change as a greater understanding of the marine biological interests in the Clyde is developed.

9. The presence of maerl in Lamlash Bay was key in Scottish Water’s recent decision to reroute an outfall pipe, and a study that led to that decision identified the potential location of the pipe as an area that was in good condition (with over 90% live maerl). However, we believe that this particular area is not fished by scallop dredgers.

**Strategic considerations**

10. The Executive is well on the way to delivering the Partnership Agreement commitment to: "set in place an urgent review of the management of all fisheries within the 12 mile coastal zone, with a view to delegating responsibility to local stakeholders, if necessary through reform of the Inshore Fisheries Act and other regulatory measures for inshore fisheries". We expect to publish the results of this exercise in March or April.

11. The key challenge in that exercise has been to enable a culture change in the (inshore) fishing industry which will require fishermen to take more responsibility for their actions, not just in relation to the stocks that they fish, but in relation to other marine users and considerations. The inshore industry recognises that this change is needed, and their proactive involvement in developing an inshore strategy and inshore management structure (together with SNH and Scottish Environment Link) is to be commended.

12. The inshore strategy will essentially set out an overall direction for inshore fisheries in Scotland, including overarching objectives for the management of inshore fisheries from a biological, environmental, social, economic and governance perspective. The intention is that the overarching objectives will be developed into more specific, local objectives for the diverse inshore fisheries around Scotland, according to their individual features and character. Area management plans will be drawn up to set out the implementation of these local objectives. That process will include a requirement to fully assess any action against the overarching inshore fisheries objectives, and identify goals and the means by which success will be measured. The
delivery mechanism for this approach is likely to be a series of area fisheries group, which will include fishermen, other marine stakeholders and relevant expert advisers.

13. The intended structure for the delivery of the inshore fisheries strategy would also enable delivery of the objectives of the developing framework for the marine environment. The purpose of the marine environment framework would be to integrate the needs of local communities, industries and the marine environment in line with the key principles of sustainable development (promoting good governance; using sound science responsibly; living within environmental limits; achieving a sustainable economy; and ensuring a strong, healthy and just society). The framework would set national level strategic objectives to be delivered, through stakeholder participation, at local levels and measured against a clear set of performance indicators (and the previous paragraph sets out how that would operate in practice for the inshore fisheries sector).

14. This will all necessarily require sound underpinning scientific advice as well as transparent dialogue between the key interest groups to ensure that mutually acceptable, justifiable, and workable solutions to the type of concerns COAST has raised can be secured in a way that balances the various interests without giving undue weight to any one over another.

Legislation

15. The Inshore Fishing (Scotland) Act 1984 allows Ministers to regulate fishing for sea fish in any specified area within Scottish inshore waters, including for marine environmental purposes. Other legislative tools would be required to prohibit the extraction of other forms of marine life.

Conclusion

16. In the absence of a formal designation such as a marine candidate Special Area of Conservation in Lamlash Bay, and given efforts to build a positive working relationship between the fishing industry and other marine users, the Executive takes the view that it would be undesirable in this case to impose restrictions for a project or trial without some level of voluntary agreement first being in place. COAST's proposal, while laudable, risks undermining the wider debate on managing the marine environment if it is not seen to be justified. Scottish Natural Heritage provides advice to the Scottish Executive on matters relating to the protection of the marine environment, and if advice were received that recommended the prohibition of fishing activity in the area in question, then a different view may be taken. The desire to encourage cooperation between marine users would not take precedence over SNH advice on such matters, but the Executive believes that where there is an opportunity to achieve local consensus to a voluntary measure, then that avenue should be pursued.

SEERAD
January 2005
Clyde & Southwest Static Gear Association

Alan L Marsh (Secretary)
Minard Court
Minard
Argyll
PA32 8YB

Dr James Johnston
Clerk to Public Petitions Committee
Parliamentary HQ
Edinburgh
EH99 1SP

25th February 2005

Public Petition PE799

Dear Sir,

On behalf of the CSSGA, I wish to comment as follows:-

1. This association supports and endorses this petition in the interest of long overdue conservation measures and we consider Lamlash Bay a suitable candidate location for a marine protected area.
2. This association has petitioned for similar measures (One mile limit) throughout the Clyde Fisheries area and welcomes this opportunity to support a trial, which we hope will become a test case for further marine protected areas.
3. Unrestricted rights to fish for all is no longer an excuse for inaction by the Scottish Executive

Yours faithfully

Mr A L Marsh (Secretary to CSSGA)
Dr. James Johnstone  
Clerk to the Public Petitions Committee  
Parliamentary Headquarters  
Edinburgh  
EH99 1SP

9th February 2005

Dear Dr. Johnstone

Scottish Parliament Public Petitions Committee – Consideration of PE799

Thank you for your letter of 11th January 2005.

I note that within the 'Additional Information Page', reference is made to COAST's Proposals having an impact on the economy of the Isle of Arran. References are also made to the Sea Angling Festivals and the drastic decline in white fish stocks. These are the parts of the Petition I am competent to comment on, which I do hereunder:

**The Clyde Area**

The area of water from Corsewall Point to the Mull of Kintyre was regarded as a protected area. Boats of 40 ft. and under were only permitted to fish in this area. The type of fishing was 'seine netting' for round and flat fish and 'ring netting' for herring. There is ample evidence that large Atlantic cod passed through this area for spawning, by passing up both sides of Arran to spawn in the sea lochs. One such place was the Gantocks off Dunoon where these large cod rested. Large numbers of cod were caught by anglers, weighing 40-50 lbs. each.

The coastal waters around Arran were well known for their quality haddock. Locals fished these bays for these fish and in 1959-60 a group of anglers got together to form a National Body. The Scottish Federation of Sea Anglers was formed and based in Edinburgh.
Scotland's first Sea Angling Festival was held on Arran in Lamlash Bay in 1961, during the Whit holiday week. This festival went from strength to strength and had over 200 anglers taking part annually. 1997 was the last year the festival took place because of lack of fish.

In 1974 and for the next 11 years, during the Easter holidays, a one week training course for juniors was held. This course was used to train the juniors on all aspects of angling and safety at sea. The course was supported by the National Body and the Scottish Sports Council.

Another Sea Angling festival was established in Brodick Bay during the August Bank Holiday, in 1965. The most important aspect of these Angling Festivals was the large increase to the tourism trade. Hotels and Guest Houses gained from this influx of anglers and their families, further more, the tourism season was extended throughout the year with anglers coming most weekends to fish. The catchments area for anglers was from Newcastle to York and across to Merseyside.

In the late seventies the weight catch of fish started to decrease, with ever plundering of our bays by trawlers. In 1983-4 the Scottish Fisheries Minister decided to do away with the three mile limit, with no restrictions on boat sizes. Thereafter the large pair trawlers came into the Clyde and cleaned up everything. About this time scallop fishing was becoming more and more evident with the boats from Kintyre. It was of some concern when they tied up at Lamlash and Brodick piers and all the undersized scallops were dumped overboard. Similar accusations can be made at the scallop dredgers for the devastation to the herring spawning grounds at Bennan Head on the west coast of Arran.

My view for a sustainable future for all concerned is to support the COAST project. Furthermore I would like to see the three mile limit reintroduced and for artificial reefs to be created inshore to provide natural habitats for marine life. These could be made by using old tyres chained together. This would help the fishing industry in the long term.

Finally, one should also look at the damage done to fishing festivals on the Clyde, none exist today. There were festivals at Arran, Saltcoats, Ardrossan, Irvine and Ayr.

Yours sincerely

Neil McLean
Chairman, Arran Sea Angling Association.
SCOTTISH PARLIAMENT PUBLIC PETITIONS COMMITTEE, PE799: TRIAL OF A NO-TAKE ZONE AND MARINE PROTECTED AREA IN LAMLASH BAY, ARRAN

Thank you for seeking a view from Scottish Natural Heritage (SNH) on the issues raised in the proposal from the Community of Arran Seabed Trust (COAST) to establish a no-take zone and marine protected area within Lamlash Bay, Arran.

Background

SNH has been in correspondence with COAST since 2002, and staff from our local Area office and Maritime Group have met with them on several occasions. The initial proposals from COAST were fairly general, but included the use of the Lamlash Bay area in a trial for ‘seabed regeneration’ to aid in the recovery of fish stocks. There was also discussion over the possible use of artificial reef structures within the bay, although this element has subsequently been dropped from the proposals.

SNH has been supportive of the broad principles of COAST’s proposal, but in doing so we have encouraged the group to sharpen their objectives, to gather information to support their proposal and to develop the proposal in the wider context of relevant marine resource management initiatives currently underway in the Clyde (see below).

COAST’s proposal was initially unsupported by information about the seabed flora and fauna within Lamlash Bay. With the assistance of a grant from SNH, volunteer divers have obtained valuable data under the ‘Seasearch’ scheme for marine survey. This data has provided a better understanding of the distribution of habitats and species within the bay including features of conservation interest, notably the presence of beds of calcareous seaweeds (known as maerl). The members of COAST should be commended for their efforts in gathering this information.

Bolstered by further detailed survey work by the University Marine Biological Station Millport, the seabed survey information is currently being used to inform discussions regarding the sewage outfall being installed by Scottish Water, the location of which has been altered to avoid unnecessary impact on the maerl.
Clarification of the proposal's terminology

Before commenting further on the proposal it would help to clarify the terminology being used, particularly to try to avoid confusion over the terms 'marine protected area' and 'no take zone'.

'Marine spatial planning' is a broad term covering the processes that allocate (or could be used to allocate) maritime space amongst different uses. While the purpose of such planning may in some cases be to safeguard natural features of special value, it could equally well be to promote the delivery of other benefits, including economical or recreational benefits, or to reduce stakeholder conflict.

There is a range of measures that could be used, some of which are sectoral such as fisheries orders, and which also include forms of site based designation to identify areas of quality or rarity.

Confusion can arise when terms such as 'no take zone' and 'marine reserve' are used interchangeably with 'marine protected area'. 'Marine protected area' (MPA) is a catch-all term referring to any area of the marine environment that through laws or regulations provides lasting protection to military, energy, shipping, industrial or cultural interests (not usually the subject of formal designations) as well as natural heritage ones (which sometimes are).

The COAST proposal refers to one component as a 'no take zone' and another as a 'marine protected area'. We would see the combined area as a form of marine protected area, albeit zoned on the basis of two management policies with respect to fishing – i.e. a completely unfished area, and an area where only static gear is allowed. The management objectives envisaged by COAST include benefits for both biodiversity and sustainable fisheries.

National and local policy context

There is increasing interest in Scotland in marine spatial planning as a means of safeguarding areas that are nationally and locally important for their biodiversity, their landscape and scenic character or other special qualities, as well as for promoting sustainable management of marine resources. There is a role for natural heritage designations within such a planning system. However our preference is strongly for an approach that takes account of the full range of benefits to be delivered (for fisheries and other interests, as well as natural heritage) and the range of mechanisms available. Decisions about whether individual areas need to be protected, or designated, and the form any such protection or designation should take, need to be taken against the background of that wider view.

Commitment to the establishment of an integrated management framework containing at least some elements of this is reflected in three documents produced last year:

- The Scottish Executive's consultation paper 'Developing a strategic framework for Scotland's marine environment';
- The Scottish Coastal Forum's 'A Strategy for Scotland’s Coast and Inshore Waters';
- The Scottish Biodiversity Forum's marine implementation plan.

In addition to these Scottish developments, there are proposals for a UK Marine Bill (which may include proposals for a marine spatial planning system) and UK policy commitments to the implementation of a network of MPAs via the North Sea Conference process and OSPAR. More recently, one of the recommendations of the Strategy Unit report 'Net
Benefits' is for the establishment of experimental MPAs to test/demonstrate their economic and biological impact.

On the face of it, the COAST proposal appears to have the potential to support some of these commitments. Before deciding whether or not it can in practice do so, however, it is necessary to take into account some further considerations.

There are practical, political and scientific reasons for believing that MPAs are most likely to be successfully established and effective when they are set within a wider marine resource management strategy with the support and input of all the relevant stakeholders. For similar reasons it is also important that sites are identified and agreed through some form of systematic selection process, not in response to ad hoc proposals.

Fortunately, there are interrelated marine management initiatives relevant to the Clyde, which are working towards the establishment of a marine management framework against which the Lamlash Bay proposal can be measured and developed. These include:

- The Scottish Executive Review of Inshore Fisheries: this review is being undertaken in partnership with the members of the Scottish Inshore Fisheries Advisory Group. Although not yet complete, the results of a consultation in September 2004 point to a growing consensus in favour of the development of Area Management Groups. Each group would be required to develop a strategic management plan for the fisheries in their area. This plan would provide a mechanism for integrating the management of fisheries with wider marine resource management and constitute a natural focus for the consideration of measures such as MPAs.

- The Clyde Fishery Management Project: This project was established in late 2004. The partners include Seafish, SNH, the Clyde Fishermen's Association, the Clyde Static Gear Association and WWF, and has secured EU structural funding from FIFG. One of the aims of this project is to lay the foundations for the kind of proactive, strategic management plan envisaged by the Inshore Fishery Review (above) for fisheries within the Clyde sea area.

- The Clyde Forum: The Forum is a voluntary partnership of local authorities, organisations, businesses and communities committed to working towards integrated, sustainable management of the Clyde's environmental, economic and community resources.

- Sustainable Scottish Marine Environment Initiative (SSMEI): The SSMEI was instigated by the Scottish Executive in November 2002. The principle aim of the SSMEI is to develop new management framework options for the sustainable development of Scotland's marine environment. Options should embrace the concept of the ecosystem-based approach to protection measures, and will be tested through the implementation of a number of pilot management schemes – one of which will be the Clyde.

The potential outcome from these initiatives is likely to include a policy on marine protection that will deliver the benefits that COAST seek across the Clyde as a whole and not just in Lamlash Bay.

While we have no wish to discourage the enthusiasm of COAST, we are keen to ensure that their specific proposal does not rekindle past conflicts and entrench antagonistic attitudes, thereby undermining the progress being made towards the wider goals that are currently being pursued through the other initiatives described above. We therefore have a strong
preference for the COAST proposal to be considered and developed within the context of these initiatives and not in isolation.

**Natura (Habitats Directive)**

Under the EC Habitats Directive there is a legal obligation to protect maerl bed habitat. This obligation is discharged in two ways. Firstly, Special Areas of Conservation (SACs) are designated in the most suitable locations. In the case of the Annex I habitat type "Sandbanks which are slightly covered by sea water all the time", includes maerl, and a site has been designated at the Sound of Arisaig. In addition, maerl may also be a feature of the Annex 1 habitat type "Shallow inlet and bay", examples of which are Loch Laxford and Loch Maddy SACs. However, areas qualify for designation only if they meet certain established criteria. The presence of maerl in Lamlash Bay does not of itself justify the identification of the site as a potential SAC, and at present the bay does not appear to meet the criteria for selection as such.

Secondly, the obligations under the Directive are met through measures to prevent significant detrimental damage in the wider countryside/seas as well as within protected areas (SACs). This is why we are keen to see the initiatives mentioned above deliver a management framework for the Clyde with scope for spatial policy that would protect maerl and other sensitive habitats from damaging impacts throughout the Firth of Clyde, not just in Lamlash Bay.

**Summary**

SNH respects the efforts of COAST to protect their local environment. Where there is a local consensus to protect resources on a voluntary basis we are always sympathetic. Where there is an argument to impose a regulatory or protective mechanism we would say that this must be seen in a wider context, to assess whether it is appropriate and justified. We are not persuaded on the evidence we have seen to date that Lamlash Bay should be selected for special protection under the European Habitats Directive, but that it should be considered in the context of wider efforts to plan and prioritise within the Firth of Clyde and to recognise it appropriately in that context. While trying to resolve issues at a bigger scale and with more players has the risk of delay and complication it also offers greater benefits in reducing conflict and in co-operation in implementing agreed proposals. Seen in that context the arguments for special measures in Lamlash Bay will be easier to assess than they presently are in isolation.

Ian Jardine
Our Ref: FC/5

10 January 2005

Dr James Johnston,
TG 01,
Parliamentary Headquarters,
EDINBURGH EH99 1SP

Dear Dr Johnston,

Scottish Parliament Public Petitions Committee – Consideration of PE 799

I refer to your letter of 23rd December with enclosures. I have prepared a response on behalf of the Association to the Petition and enclose it herewith. If either you, or any of the members of the Committee, require clarification of the Association's position, you only have to let me know.

I confirm that I have already sent you a copy of this letter and the Association response, electronically.

Yours sincerely

PLM Stewart
Secretary
RESPONSE

by

CLYDE FISHERMEN'S ASSOCIATION

to

PETITION

of Tom Vella-Boyle

to the

SCOTTISH PARLIAMENT

anent Lamlash Bay Isle of Arran

1 The Respondent is a trade association comprising 75 boat owners. The Respondent is an interested party in respect that its membership vessels are presently entitled by law, subject to the necessary licences and entitlements, to dredge and trawl for sea fish in Lamlash Bay, Isle of Arran.

2 The Respondent objects that the Petition is without substance, in itself, and without evidence to support it. Even if it were of substance and had evidence to support it, the aim of the Petitioner is incompetent, as there is no power within UK or Scottish legislation which would permit the establishment of the project.

3 No Take Zones and Marine Protected Areas.

a) As a No Take Zone is but one type of Marine Protected Area, the object of the petition will be referred to as an MPA except where it is necessary to refer to the areas separately in Section 7 hereafter.


i) 7.17 Current thinking on the role of important areas within an overall marine nature conservation strategy is that these areas should be seen not (or not only) in isolation but also as components of an ecologically-coherent network of areas. Individual areas within this network should have the capability of supporting one another ecologically, and also of supporting, and being supported by, the areas of sea and seabed adjacent to them.
7.18 The Irish Sea Pilot has therefore proposed that a network of mutually-supporting areas, or areas capable of supporting the biodiversity of neighbouring sea or seabed areas, is a practical ecological proposition.

4 Supporting recommendations

a) The reasoning in the Petition is entirely inductive. It does not meet any of the criteria laid down in the relevant RMNC recommendations and that for the following reasons: --

b) The proposed MPA is not important in marine ecological terms. No evidence has led the closure is likely to lead to any "improvement" in the relevant marine environment. While it is accepted that there has been a substantial decline in fish catches in the Firth of Clyde, there is no evidence either in the Petition or extrinsically in the literature that Lamlash Bay is, or was, a significant, or even material, spawning or nursery area for either demersal or pelagic species. There is no evidence that closure, without other active management measures, would contribute to any local recovery of shellfish stocks.

c) If Lamlash Bay is not, in isolation, important, there might be important as part of an ecologically coherent network. No evidence has led on this point. One cannot help but have the impression that the Petitioner is quite ignorant of the enormous effort deployed to produce a marine environment protection and enhancement template by the Irish Sea Pilot. For the purpose of its work the Firth of Clyde formed part of the Irish Sea and that work had its apotheosis in the RMNC report.

d) The so-called trial of a Lamlash Bay MPA is in fact no such thing. The proposal has no base and no objective. It has no means of determining its success or failure. It makes suppositions as a basis for its creation and suppositions for its results. The latter are in the vaguest form (e.g. "through spillover of species from the NTZ, the Clyde fishermen").

e) The Petitioner makes claims for the success of MPA's other parts of the world. He leads no evidence of the applicability in the context of Lamlash Bay. He makes no mention that the vast majority are a creation of the relevant State, imposed after much consultation with local fishermen particularly in relation to diversion of effort. The rules governing them are enforced by the State. In order to obtain co-operation from fishermen and other marine users, the State has always been careful to follow the procedure, as proposed by RMNC with regard to selection and to creation. No such thing has happened or is proposed in the instant case. Indeed the petition calls for the closure to be imposed without further reference to the affected marine users.

5 Legislation

a) The Petitioner makes reference to the Habitats Directive and the Inshore Fishing (Scotland) Act 1984

b) Habitats Directive. The duties of government referred to by the Petitioner refer to conservation duties in relation to Special Areas of Conservation. The Lamlash Bay is not an SAC.
c) **Inshore Fishing (Scotland) Act 1984.** This is a measure, which allows Scottish Ministers to impose restrictions and restrictions in Scottish inshore waters for the purpose of fisheries management. It is therefore inexpedient for use in a nature conservation context.

d) The RMNC report says at 7.24

7.25 On the basis of its considerations, the Working Group recognises the contribution that the existing regulatory framework can make to the development of a network. However, it questions whether existing and prospective mechanisms are fully capable of establishing and conserving an ecologically coherent network of important marine areas as required to support the described marine nature conservation framework and under OSPAR.

6 **Socio-Economic Balance**

a) The Petitioner argues that the success of the project would have a beneficial impact on the economy of the Island of Arran, through the medium of sea angling.

b) It is already shown that a closure will not affect the biomass of demersal fish that supply the Firth of Clyde. The closure will have a deleterious effect on the socio-economic position of Carradale. This village, on the east side of Kintyre, is entirely dependent on its fishing industry. The industry, in its turn, is in part dependent on scallop dredging in Lamlash Bay. The fishermen of Carradale do not consent to a closure of an important fishing ground, and therefore a part expropriation of their living, for spurious reason and without compensation.

c) It is therefore the case, that any closure will have an immediate and negative impact on local income and sustainability without any provable or measurable gain in the medium to long-term.

d) The Respondent has suggested an alternative to the Petitioner. The alternative is encouraged by current legislation, would meet most of the Petitioner's objectives and is very likely, on the basis of evidence from experiments conducted in the Isle of Man, to produce benefits for scallop fishermen in the medium term.

7 **The Alternative**

a) To designate the proposed NTZ area (or something like it) as a Several Fishery in terms of the Seafish (Shellfish) Act 1967. All fishing would be prohibited. The area would require to be cultivated by the Petitioner and his colleagues by the laying of scallops. This, of course, implies a financial commitment on the part of the Petitioner and his colleagues. The project, as it stands, implies no financial commitment of any kind.

b) To designate the MPA as the Regulated Fishery in terms of the same Act. This would open the possibility of licensing scallop dredgers to operate only under strict conditions, one of which would be to gauge the success of the NTZ reseeding project.

c) This proposal has been put both verbally and in writing to the Petitioner and colleagues but without substantive, or constructive, response.
8 Conclusion

a) The proposal substantially fails to convince that it relates to a site, which would otherwise, in terms of internationally accepted criteria, be accepted as an MPA.

b) Even if it were, there are no specific targets for the proposed closure. It is the position of the Respondent that the proposal, if implemented, would produce no material benefit for marine conservation in Lamlash Bay let alone the Firth of Clyde and, most importantly, the Regional Sea. Its only effect would be to reduce fishing opportunities open to local fishermen and increase measurably antagonism to proposals for a network of Marine Protected Areas which are likely, in the near future, to be proposed by government. On the other hand, the Respondent's counter-proposal is likely to achieve substantial benefits for the fishery and the interested parties.

Clyde Fishermen’s Association  
PO Box 9261  
Campbeltown  
Argyll PA28 6YE

10 January 2005

P L M Stewart  
Secretary
Mr Richard Hough  
Assistant Clerk to the Public Petitions Committee  
The Scottish Parliament  
TG.01  
Parliamentary Headquarters  
Edinburgh  
EH99 1SP  

16 May 2005  

Dear Mr Hough  

Consideration of PE799  

I apologise sincerely for the long delay in providing any response to Petition 799 by Tom Vella-Boyle. The reason for this delay is that this area of marine science policy is largely outside the scope of research capability undertaken by SAMS, and we do not have any specific experts on No-Take Zones or Marine Protected Areas. Furthermore, we have no specific information on the area of Lamlash Bay.

However, we do note the input from Professor Callum Roberts and the field data collected by the UMBS, Millport. We have the highest regard for Professor Roberts, and would expect that his knowledge on Marine Protected Areas should be taken fully into account in the deliberations of the Committee. We would also endorse the comments in the supplied Appendices that maerl beds are at risk from continued pressure from scallop dredging in this area.

The COAST proposal for a marine regeneration trial is interesting and conforms to current thinking on the development of MPAs, as described in the recent report of the Royal Commission on Environmental Pollution. We are in support of this approach to inshore fisheries management.

Yours sincerely,  

Professor Graham Shimmield FRSE  
Director SAMS
Scottish Parliament Public Petitions Committee – Consideration PE799

Thank you for your letter of 13 July 2005 to David Brown asking the Scottish Executive for an update on the issues raised by the petition (PE 799) submitted by COAST in relation to Lamlash Bay. I regret the delay in replying.

The Executive has noted the informed discussions by the Committee on this issue on 28 June. It has also noted the terms of the responses received by the Committee from the Clyde and Southwest Static Gear Association, the Arran Sea Angling Association, Scottish Natural Heritage, the Clyde Fishermen’s Association and the Scottish Association for Marine Science. In addition, the Executive has noted that the Committee has sought further comments from the Petitioner and from Professor Roberts of the University of York.

There have been developments in a number of key initiatives and proposals relevant to COAST’s proposal since the Executive provided views to the Committee on the issue earlier this year. Details of these are provided in the attachment to this letter. You will also note from the attachment that, having met with representatives of COAST in May, Mr Ross Finnie, Minister for Environment and Rural Development, will shortly be writing to COAST to provide a formal response to the organisation’s proposals. I shall write to you again then to advise you of the Minister’s response.

In the meantime, I hope this letter and attachment is helpful. If it raises any particular questions please do not hesitate to get in touch with me.

Yours sincerely

Eamon Murphy
LAMLSH BAY, ARRAN - COAST’S PROPOSALS FOR A NO-TAKE ZONE/MARINE PROTECTED AREA

UPDATE

1. As recognised by the Scottish Parliament Public Petitions Committee at its meeting on 28 June 2005 there have been a number of relevant developments since the Scottish Executive provided comments on the proposal for a no take zone and a marine protected area at Lamlash Bay in February of this year. These are:

• The Executive published in March 2005 its Strategic Framework for Inshore Fisheries in Scotland. Implementation of the framework, work on which is underway at present, will provide a significant role for stakeholders in the management of inshore fisheries. In particular, the framework sets out the Executive’s plans for the establishment of a series of Inshore Fisheries Groups around the country which will act as local management fora. While fisheries’ stakeholders will have a key role in these groups, a wide range of other local and national stakeholders will have the opportunity to be involved with and influence the groups, including those particularly interested in environmental aspects of coastal and marine management. The work which is currently underway includes the identification of the first tranche of these groups and the finalisation of their constitution and conflict resolution mechanisms. We expect the first tranche of Inshore Fisheries Groups to be in place and up and running by the spring of 2006. The proposals in respect of Lamlash Bay are precisely the sort of initiative which we would expect to be covered in management plans worked up by the Inshore Fisheries Groups.

• Ross Finnie, Minister for Environment and Rural Development, met with representatives of COAST on 17 May 2005 to find out more about the organisation’s proposals and what they were trying to achieve. The Minister will write in the near future to COAST, providing his formal response to its proposal for a no take zone and Marine Protected Area in Lamlash Bay.

• Mr Finnie has also published two further documents that set a clear strategic direction for marine and fisheries management generally. On Monday 12 September, he published a Strategy for the Long Term Sustainability of Scotland’s Coasts and Seas, the aim of which is to secure a vision of clean, healthy, safe, productive and biologically diverse marine and coastal environments. This will be achieved by the co-ordination of sectoral strategies and time limited outputs and outcomes delivered through a Ministerially chaired stakeholder group. This group will comprise the chairs of existing national stakeholder bodies, such as the Scottish Coastal Forum, who will be asked to liaise with local groups and interests; and representatives of the environmental NGOs, industry and academia. The strategy will be supported by three pilot projects under the Scottish Sustainable Marine Environment Initiative, one of which will focus on the Clyde, to consider how various activities in and around Scotland’s coasts and seas might be better managed. Some of those pilots, including that being taken forward for the Firth of Clyde, will explore the potential for marine spatial planning. A further element of the strategy will be the work Mr Finnie has commissioned from SNH, to identify possible locations for a Coastal and Marine
National Park and provide advice on the role and governance of such a body. SNH is establishing a separate stakeholder group from which to take soundings as their work progresses.

- Fisheries management is one of the key components of the Executive's approach to marine management and, on 28 June this year, Mr Finnie announced the publication of a Sustainable Framework for Scottish Sea Fisheries to complement the inshore framework and the Coasts and Seas Strategy which was already being developed at that time. The Sustainable Framework aims to bring the benefits of the inshore strategy to the wider sea fisheries sector. It aims for a sustainable, profitable and well-managed sector which will support thriving and diverse local communities and a thriving and diverse marine environment. There are three main components: development of sustainable stock management strategies to put the stocks on a more sustainable and stable footing in tandem with the development of commercial strategies to raise profitability in the sector, underpinned by more involvement from the industry in science and management as well as effective and equitable enforcement.

- Work on the Lamlash Bay Sewage outfall pipeline is now complete.

2. In addition, the response by the devolved administrations and DEFRA to the Review of Marine Nature Conservation is presently being finalised and will be published shortly. This will respond, in particular, to recommendations in the Review on the establishment of a network of Marine Protected Areas and on the identification of areas important for marine biodiversity.

3. The Minister's response to COAST on its proposals will take into account the detailed material which the organisation has provided including at its meeting with the Minister in May, the material provided by others and the various policy initiatives and proposals which are set out in the publications described above.

SEERAD
3 October 2005
Dear Mr Hough

SCOTTISH PARLIAMENT PUBLIC PETITIONS COMMITTEE - CONSIDERATION PE799

Further to previous exchanges on petition PE799, which relates to the proposals by COAST for prohibitions on fishing in Lamlash Bay, please find enclosed a copy of a letter dated 19 June from Mr Ross Finnie, Minister for Environment and Rural Development, to Mr T Vella-Boyle, the Secretary of COAST.

I am copying this letter and the enclosure to Mark Brough, Clerk to the Environment and Rural Development Committee, for information.

Yours sincerely

Eamon Murphy
I refer to your letters of 19 September and 9 November last year. I am extremely sorry not to have responded sooner. I also had a meeting with Allan Wilson MSP earlier this year where it was agreed that a letter would issue to you soon thereafter. I'm sorry that there has been a serious mix-up and the letter did not issue.

May I first congratulate you on developing an exciting set of proposals. As you know, we are taking forward in Scotland a number of marine environment initiatives that help us achieve our aims of protecting our natural environment and promoting a successful and sustainable fishing industry. I am delighted to work with you on the specific proposal in Arran.

The attached statement sets out the background and formally responds to your proposal. You have asked Scottish Ministers to use statutory powers to introduce legally binding restrictions on fishing activity in Lamlash Bay, and have argued that the proposal could contribute to Scottish Executive objectives. Furthermore, you both recognise and are willing to contribute to the range of policy initiatives which are being implemented in the Clyde area, including the Clyde Forum, and the Scottish Sustainable Marine Environment Initiative. You may also be aware that we will shortly have in place an Inshore Fisheries Group for the Clyde, who will take on an increasing role for local fisheries management under the broad framework of our Inshore Fisheries policy. I would expect COAST to be a key stakeholder in these initiatives, which represent the appropriate forum to take forward the proposals.

While I am very sympathetic to your proposal, we may not need to resort to statutory measures. There is a risk that such measures could cut across our attempts to build a consensual approach to marine nature conservation which at present utilises statutory no take zones in areas

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While I am very sympathetic to your proposal, we may not need to resort to statutory measures. There is a risk that such measures could cut across our attempts to build a consensual approach to marine nature conservation which at present utilises statutory no take zones in areas
which have been designated as a Special Area of Conservation. I understand that local fisheries representatives have indicated their willingness to consider alternative voluntary measures. My strong preference would be to achieve a more positive outcome by ensuring the support of a wider range of interests. This would help implement the proposal to contribute to marine environment protection outwith the priority areas designated as Special Areas of Conservation.

I have therefore asked senior officials in the Department to facilitate further discussions with you and local fisheries interests to explore the proposal further and consider mechanisms for taking them forward within the framework of our new approach to the Coastal and Marine Environment and Inshore Fisheries Management. I would certainly expect that the forthcoming Clyde IFG would give early consideration to the COAST proposals.

Following those discussions, I would be pleased to meet you again to discuss the next steps.

ROSS FINNIE
APPENDIX

PROPOSAL FROM THE COMMUNITY OF ARRAN SEABED TRUST (COAST)

1. Scottish Ministers have been asked by COAST to put in place a fisheries no-take zone and a mobile gear only zone underpinned by legislation in Lamlash Bay. The Act of Parliament which would be used is the Inshore Fisheries (Scotland) Act 1984, which gives Ministers powers to close a fishery where there is justification for doing so.

Policy Background

2. The Scottish Government's policy for inshore fisheries is set out in the Strategic Framework for Inshore Fisheries, published in March 2005. The main element of the framework is the establishment of a network of Inshore Fisheries Groups around the country. These Groups, which will have fishermen at their core, will have the key role in inshore fisheries management in the coming years. The structure of the Groups encourages the involvement of organisations with wider, i.e. beyond fisheries management, functions and responsibilities, NGOs and other stakeholders. It will incumbent on the fishing industry to take account through Inshore Fisheries Groups of the responsibilities and aspirations of these wider organisations and stakeholders as they go about the business of managing the fishery.

3. The Scottish Government's approach to nature conservation and the wider marine environment is set out in the Coastal and Marine Strategy – Seas the Change published in September 2005. Decisions on the use of statutory powers of Fisheries management need to take account of international obligation and other commitments and requirements, and there is a need to recognise responsibilities, aims and aspirations of a wide range of sectors and stakeholders.

4. No take zones and restricted fishing zones have an important role to play as fisheries management measures, in the context of a strategic approach and on the basis of objective criteria the application of which would result in the most appropriate sites or areas being identified. For example, a restriction to help increase or maintain scallop stock levels would have to be put in place in an area where it was clear that tangible benefits would be realised. A closure or prohibition based on a local approach where the case had been established and agreement reached is an option for consideration by Inshore Fisheries Groups.

5. There may also be circumstances when Scottish Ministers utilise the Inshore Fisheries (Scotland) Act 1984 where there are strong nature conservation grounds for doing so. For example, there may be circumstances where there is evidence that fishing is potentially damaging the relevant features of a Special Area of Conservation. The Scottish Government's statutory advisers on nature conservation are Scottish Natural Heritage. While our understanding of the habitat of the area has been greatly enhanced by the work of COAST, SNH have advised that Lamlash Bay does not appear to meet the criteria for selection as a Special Area of Conservation. However, they see scope for addressing concerns about the maerl bed habitat in Lamlash Bay, through the range of marine management initiatives in the Firth of Clyde.
Conclusion

6. In making an Order under the Inshore Fisheries (Scotland) Act 1984 there needs to be justification, and in carrying out statutory functions, Ministers are required to be acting appropriately and reasonably. In the instance of the COAST proposals there is no case for preventing or restricting fishing in the area in question from a fisheries management standpoint, and, as has been confirmed by the Executive's statutory nature conservation advisers (SNH), the area in question does not merit statutory marine nature conservation designation. This points to the conclusion that there is insufficient justification to agree to COAST's request and indeed that the Executive would, if it did agree to the request, be vulnerable to a legal challenge of its actions.

The Scottish Executive
Environment and Rural Affairs Department
While technological advancement can cause the devastation of marine life, Nick Fisher discovers that arcane scallop-fishing methods are leading to a coastline catastrophe.

We have the potential to track down and catch every last fish in the sea. By using a technological cocktail of global positioning satellite navigation, satellite photo imagery and thermocline detection systems, we have the ability to empty the oceans of everything edible. And we are. The number of global species that are listed as endangered is growing every day, as our technological tentacles stretch further and deeper into hitherto uncharted waters.

European, Russian, Japanese and Chinese fishing fleets are now targeting species in parts of the world that used to be too far away or too deep to harvest effectively. The construction of super trawlers, with more gadgetry than a space shuttle, has, in essence, shrunk the oceans of the world, and put Man's finger firmly on the trigger. We are in charge of the oceans' destiny. The sooner we accept this and agree on a proper means of controlling the destruction and depopulation, the better. Because there is no doubt we can catch the last fish in the sea. We have the technology.

But destruction, not by technology, but by lack of technology is taking place every day — and it is happening right here, in our own back
yard. In Lyme Bay, on the Devon and Dorset coast, the scallop-dredging fishery is a disgrace, due to arcane and now totally anachronistic, fishing methods. An injection of technology and the removal of some old-fashioned brutality would benefit the local marine environment, and everyone connected with it. Except, that is, for a handful of scallop dredger owners.

The problem is their technology is primitive. A scallop dredger drags a heavy steel dredge along the seabed. This dredge, constructed like a massive chain mail carpet, rumbles and clatters along the seabed, causing the scallops in front of the approaching dredge to swim upwards to escape the cause of the scary disturbance. Above the dredge is a suspended net, into which the scallops unwittingly swim.

It's a cute design. A clever piece of cunning, and one that has been in constant use for decades. But in a shallow, fragile bay such as Lyme Bay, it does an awful lot more harm than good. The dredge breaks down or erodes everything in its path, even the habitat that the scallops themselves crave. Lyme Bay is not only an area of outstanding natural beauty, it's home to a variety of rare corals and the protected pink sea fan. This marine life is being systematically destroyed as the number of dredgers moving into this area increases.

This increase in activity is caused by another toxic cocktail of economic and bureaucratic reasons. Fin fish, such as cod or bass, are strictly controlled by quotas. It's a pretty crude and ineffectual way of controlling the damage to stocks. Quota manangement has created so much waste and destruction, with some trawlers resorting to catching pre-spawning cod, cutting out their roe sacs and throwing the rest of the fish away. This is made possible by the quota system: a boat is allowed to land cod roes, but not whole cod. The fish still die. The roe never hatches, and box after box of an endangered fish are tipped over the gunwales to spiral to the seabed to become food for whales and dogfish.

Scallop aren't included in a quota system, so some vessels, which understandably are exasperated by the fin fish restrictions, are changing to dredging. So there's an increasing number of dredgers competing for the quota-less scallops. This is the fault of Government legislation, Common Fisheries Policy, directives from Brussels and the lack of local fisheries empowerment. It's a stupid, stupid system.

West Bay recently had a huge harbour improvement scheme, which created a safe outer harbour where boats could be launched or tied up overnight. This new facility meant that scallop dredgers from as far away as Plymouth, Exeter and Shoreham could lay-over at West Bay and unload their catch without having to return home. This week there were eight scallop dredgers parking overnight. Dredgers who are keen to catch scallops to pay the diesel they've used to schlep all the way to West Bay in the first place.

The truly local scallop dredgers, ones from Lyme Regis, have up until now honoured a local voluntary agreement with English Nature and Devon Wildlife Trust not to dredge over a few known sites of particular biological interest. Sites that contain examples of particularly special corals and fans. As a result, much has been learned about these fragile and beautiful underwater fauna, and the local dredgers should take great pride in their contribution to this study.

The dredgers from other areas which are now able, because of the new harbour, to access the local beds, previously only really accessible to local boats, have no respect for any local voluntary agreements. They mean nothing to them and so they began dredging the grounds, which had hitherto been left alone. Not surprisingly, the local boats could see no point keeping their hands off when the foreign boats were scooping up the scallops from the protected areas. So they went and dredged the ground they'd agreed to leave alone — if someone else was doing it, why should they desist?

"The marine life is being systematically destroyed as the number of dredgers moving into this area increases"

And so it goes on. Another messy cycle of greed, competition, bureaucratic hatred and a certain amount of fear. Scallop dredgers, good or bad, fear that their livelihood is about to end. Well, this style of fishing, so close to shore and in areas like this, should come to an end. Dredging is no longer an appropriate method to remove scallops from this bay while there are so many other people being adversely affected.

Even other fishermen, sole-netters and crab-potters, are being affected by the increased dredging. That doesn't mean dredgers need to be penalised. Buy them out. Buy them all villas in Spain. I'm in favour of doing and paying whatever it takes to bring an end to a fishing method that is so potentially destructive. Let's face it, this current Government wastes so much money on ridiculous schemes that have no obvious benefit to anyone. I'd heartily encourage them to throw compensation at this. If the dredging stopped and some trawling too, in a sufficiently large area, the recreational diving, angling and marine exploration trips would benefit and bring much more income to the local community. As these dredgers themselves admit, they've been dredging this bay for generations.

Isn't it about time that they stopped, retired to Spain and gave somebody else a chance to try to manage this piece of coastline with a vision of the present and future, not just the past?
COAST

COMMUNITY OF ARRAN SEABED TRUST

COAST is a local, community based organisation who wants to make the whole of Lamlash Bay on the Isle of Arran, a Marine Protected Area. The north end of the Bay would be designated a No Take Zone, meaning that nothing could be caught or extracted from that area by anyone. The rest of the Bay would be designated as an area from which commercial dredging and trawling would be prohibited.

Over a trial period scientific monitoring and analysis would be used to determine the success of the project. By protecting this area of seabed COAST hope to show that important species such as maeal and seagrass will flourish and commercial species such as scallops will regenerate.

COAST wish to raise awareness and understanding of this beautiful and fascinating aspect of Arran’s natural heritage whilst raising the profile of community lead marine conservation both in Arran and across Scotland.

COAST is supported by many politicians, marine scientists from all over the world, all the non-government organisations and many commercial fishermen.

How it used to be:

During the 70’s and 80’s the famous Arran sea-angling festivals in Lamlash Bay resulted in huge catches of up to 5,000 fish weighing up to 16,000 lbs yet by 1994, the final year of the festival, the catch was below 200lbs.

What's there?

Scottish Seas are the home to over 8,000 species of spectacular underwater life. Parts of the Firth of Clyde match almost anywhere in Scotland for marine biological diversity. Lamlash Bay contains some of the healthiest areas of maeal [a fragile, pink, coral-like calcified seaweed] to be found in the Clyde and the Arran seas have some fine seagrass beds. Both are perfect breeding grounds for fish & other marine animals and need some protection.
History of the COAST Project

Early 1995 COAST starts its campaign to set aside part of Lamlash Bay as an area where marine life can regenerate.

Aug 1995. Scottish Office writes to tell us, “SNH is currently investigating how Marine Nature Reserves should be pursued in Scotland and expects to reach a conclusion in the near future”

Oct 2001. Rhona Brankin MSP writes to Brian Wilson MP “SNH has said that it supports the principal of the [COAST’s] Proposal as a long term project. They point to the success of marine reserves in other countries etc etc.”

Aug 2002. Gabriella Pieraccini of Scottish Exec. Inshore Fisheries, writes to COAST “We are generally supportive of projects and proposals which contribute towards the restoration and improvements of fisheries, and we welcome the initiative to improve fish stocks and the marine environment of Lamlash Bay”.

Sep. 2002. Arran Community Council and island community gives unqualified support for COAST project at public meeting.

May 2003. COAST meets the CFA. Many questions were put and answered. The conclusion was “that perhaps there might be the opportunity for the CFA to do something to the benefit of all members by continuing talks”

Aug 2003. Scottish Environment LINK show support for the COAST project.

Dec 2003. COAST meets with CFA and SNH, chaired by SEERAD. COAST is excoriated by the CFA. SEERAD tell COAST that they “need to get 100% consensus for the Trial from the fishermen and their organisations before they can take the project further”.

May 2004. CFA suggests “if a proposal based on reseeding the NTZ........ was not a possibility?” COAST replies that we would support a scheme like this in another area of the Clyde.

Aug 2004. Scottish Water agrees to move sewage outfall pipe from Lamlash Bay after campaign by COAST and recommendations from marine scientists and local politicians.


May 2005. COAST meets Ross Finnie MSP, Minister for Environment. He says he will consider COAST’s Proposals.
Feb 2006. SNH write to say “SNH have been supportive of the broad principles of COAST’s Proposals....” but “There are practical, political and scientific reasons for believing that MPAs are most likely to be successfully established and effective when they are set within a wider marine resource management strategy with the support and input of all the relevant stakeholders. For the same reasons, it is important that sites are identified and agreed through some form of systematic selection process, not in response to ad hoc proposals.” COAST disputes this by pointing out that ad hoc proposals have been adopted in many other countries of the world.

June 2006. John Tait of the Marine Management Division, SEERAD, writes “the Firth of Clyde pilot project was selected through an evaluation system that measured potential pilot schemes objectively through a multi criteria process, followed by approval from the national steering group. Throughout this process it was never the intention of this pilot [or indeed any of the pilots] to preclude the progress of more localised projects.”

June 2006. Ross Finnie MSP writes that he suggests “voluntary measures” agreed with “local fisheries representatives”.

August 2006. COAST awaits the Scottish Parliament’s Environment Committee visit to Arran.

The letter from Professor Callum Roberts of York University, the world renowned expert on Highly Protected Marine Reserves, which was written in a reply to the Petitions Committee of the Scottish Parliament is an endorsement for the COAST project.
Dear Members of the Scottish Parliament Public Petitions Committee,

I am writing to urge members of the Public Petitions Committee to support the petition by COAST, The Community of Arran Seabed Trust, requesting The Scottish Parliament to undertake a Trial of No Take Zone and Marine Protected Area In Lamlash Bay, Isle of Arran. A rapidly growing body of evidence from around the world points to the benefits of no-take zones to marine wildlife conservation and also to fisheries. I have reviewed evidence for both conservation and fishery effects of protection on several occasions in the last 15 years (for details of these reviews, see introduction of: http://www.worldwildlife.org/oceans/pdfs/fishery_effects.pdf).

From my research and that of many other scientists working in this field, I have concluded that lack of no-take zone status greatly compromises nature conservation objectives of marine protected areas (see Roberts 2005\(^1\)). (As yet, Special Areas of Conservation established under the Habitats Directive do not receive full protection from fishing, and often receive very little protection from fishing). Such no-take zones are therefore an essential component of effective marine protected areas. However, I have also concluded, that conservation and fishery benefits of no-take zones are entirely compatible. Conservation of exploited species stocks is fundamental to productive and sustainable fisheries. No-take zones, or marine reserves as they are often called, are important tools in delivering such protection and the evidence of their success indicates they should be a core element of successful fisheries management programmes (see Roberts et al. 2005\(^2\)). The lack of substantial areas protected from fishing is one of the key impediments to success in current fishery management regimes.

It is quite clear from the decline in stocks of whitefish and herring in the Firth of Clyde, that fisheries there have been in serious trouble for the last two decades at least. There are few significant commercially important stocks remaining, notably Nephrops and scallops. This greatly simplified ecosystem state is highly unstable and is prone to problems affecting agricultural monocultures, i.e. disease, pest and parasite infestations. Rising infection rates by the parasite Haematodinium in Nephrops in the Clyde, rendering these animals valueless, are a warning of possible future trouble. In the past, infection rates were kept low by predation on infected prawns by whitefish such as cod. Without this control, infection rates are spiralling.


However, unlike in agricultural systems on land, we cannot remedy the problem by applying chemicals. Instead, it is critical that we maintain marine ecosystems in a healthy, intact state so that they have resilience against such problems. We can do this by creating marine protected areas that are protected from all fishing – just the kind of area that COAST is proposing for Lamlash Bay.

I understand that some fishers are concerned about a no-take zone being established at Lamlash, feeling that it will take away from their fisheries. A study that I have undertaken with a colleague Dr Fiona Gell (now working with the Isle of Man Government) reviewed evidence for fishery effects of marine reserves worldwide and found overwhelming support for the view that they can contribute to fisheries. It was in the light of evidence like this that the Royal Commission on Environmental Pollution last year called for 30% of the seas around Britain to be protected from all commercial fishing, in their Turning the Tide report.

By analogy from studies elsewhere in the world, it can be expected that benefits of protection will begin to accrue as soon as protection is implemented and will build up over a period of decades as species and seabed habitats recover from the impacts of fishing. The recovery of fish and shellfish stocks inside the no-take zone can be expected to contribute to surrounding fisheries through export of adults and their offspring from no-take zone to fishing grounds. Indeed, as the evidence in the reports referred to here indicates, the fishers currently using Lamlash Bay in Arran (and there are very few of them) can expect to do better following the implementation of a no-take zone than they are doing now. Based on available evidence, we can predict that they would do even better if large no-take zones were established covering up to 30% of the Clyde estuary. The Lamlash proposal represents an important trial of the concept in Scottish waters.

The Clyde Fishermen’s Association point out in their comments that Lamlash Bay is not ‘important’ enough biologically to become a no-take zone. Again, I point to evidence in the reports referred to which indicates that no-take zones quickly become very special places biologically by virtue of the protection conferred upon them. Such a no-take zone, by fostering recovery of populations of marine life would quickly become a tourist attraction as well as a place having conservation and fisheries value. You need only look at established marine protected areas such as Leigh Marine Reserve in New Zealand, Apo Island in the Philippines, Tsitsikamma Marine Park in South Africa, and many others to see the evidence.

The Clyde Fishermen’s Association also point out that no-take zones should be established in networks. This is true, but such networks have almost always been built piecemeal. Lamlash Bay is an excellent place to start. Given the scale of the conservation problem in the sea, an immediate start is warranted, rather than delaying matters for further consultations. Lamlash Bay, if protected now, will play a critical role in informing future discussions and efforts to establish a large-scale network of protection for Scottish marine life and fisheries.

We urgently need to get to grips with protecting marine life and ecosystems. At present, there are many protected areas on land, but there are virtually none in Scotland or the UK that protect marine wildlife from the impacts of fishing. The modest proposal made by COAST represents a highly welcome step in the right direction. Evidence from marine protected areas around the world shows that areas which have community support are far more successful than those implemented by centralized authorities without such support. Therefore, community initiatives like COAST’s are to be doubly welcomed, because they are likely to lead to significant benefits more quickly than areas designated for protection which lack such broad community participation.

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There is an urgent need in Scotland and the United Kingdom for domestic examples of the effects of no-take zones. I think that Arran should be at the forefront of gathering knowledge of these effects in order to serve the national interests. The Scottish Parliament should not miss this excellent and important opportunity to create the first statutory no-take marine reserve in Scotland.

Yours sincerely,

Callum Roberts  
Professor of Marine Conservation  
Pew Fellow in Marine Conservation
Evidence from the Minister for Environment and Rural Development on the Environmental Levy on Plastic Bags (Scotland) Bill

Further to the Environment and Rural Development Committee’s report of 6 December 2005, on the Environmental Levy on Plastic Bags (Scotland) Bill, I attach some additional evidence for your consideration.

In line with our letter to the Committee in January 2006, we are providing the following:

- Information on our work on waste prevention and further steps we intend to take following our consultation on household waste prevention.
- A summary of the responses to our consultation on waste prevention, including comments from consultees on plastic bags.
- Clarification from HM Treasury on the issue of VAT and the proposed levy.
- Letters from the plastics industry about what they would see as the potential for diversification if a levy on plastic bags should be introduced.
- A report from the Scottish Environment Protection Agency about the AEA Technology study on the possible impacts of the Bill.

I hope this is helpful. My officials and I are, of course, happy to discuss this evidence further.

I am copying this letter to Mike Pringle, MSP and to Mark Brough, Clerk to the Environment and Rural Development Committee.

ROSS FINNIE
ENVIRONMENTAL LEVY ON PLASTIC BAGS (SCOTLAND) BILL

MEMORANDUM BY THE SCOTTISH EXECUTIVE TO THE ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE OF THE SCOTTISH PARLIAMENT

Purpose

1. This Memorandum has been prepared by the Scottish Executive to assist consideration by the Environment and Rural Development Committee of the Environmental Levy on Plastic Bags (Scotland) Bill introduced by Mike Pringle MSP.

2. In the Environment Minister’s letter in January 2006 to the Convenor of the Committee, we indicated that we would take the following steps in the light of the Committee’s report of 6 December 2005:

   - Include questions on plastic bags and the priority that should be given to work on plastic bags in our consultation on household waste prevention.
   - Ask the Scottish Environment Protection Agency (SEPA) to consider the information in the AEAT study on the proposed levy on plastic bags.
   - Approach HM Treasury to seek clarity on the possible application of VAT to a levy. As the Committee indicated in paragraph 87 of its report, the application of VAT is a matter for the Treasury rather than for the Executive.
   - Contact the plastic bag manufacturing, importation and distribution industries in Scotland, and their representatives, and ask about the impact a levy might have on them and the scope for the industries to diversify if a levy should be introduced.

3. As well as taking these steps, we have also continued work with the UK Government on a possible Code of Practice on handing out plastic bags, along similar lines to the Code that has been in force in Australia.

Waste Prevention

4. A short summary of responses to our consultation paper on household waste prevention is included at Annex A. A longer summary has also been prepared. This is available for the Committee if required but, in the meantime, we have just enclosed, again at Annex A, the extract from the longer summary which deals with plastic bags.

5. The consultation was launched on 6 February 2006, closed on 28 April 2006 and generated some 170 responses.

6. The National Waste Plan lays down an aim to stop growth in municipal waste by 2010. Tackling waste growth is difficult. The most recent calculations, looking at longer-term trends, suggest that municipal waste is growing at around 1.5% a year. Trends towards more single person households, more consumption, decreasing costs of buying new products as opposed to repairing old ones and more disposable products all tend to lead to increased waste growth.
Existing work on waste prevention

7. We are already taking a number of steps to tackle waste growth, in relation to both commercial and industrial waste and household waste. There are direct economic incentives on businesses to reduce the amount of waste they produce as the cost of landfill increases, as a result of both higher standards and the UK Government’s Landfill Tax.

- Envirowise and Business Environment Partnership, both sponsored by the Executive, provide advice to business on waste minimisation. Overall, between 1994 and 2003 the total waste sent to landfill in Scotland decreased from 15.9 million tonnes to 7.9 million tonnes. (Although there are a number of reasons for this, including increased recycling).

- Business Gateway (a partnership between Scottish Enterprise, Scottish Executive and Local Authorities) delivers a one stop shop to help business start or grow. This includes signposting business to advice and support for waste minimisation. Businesses may also be eligible for support for environmental and lean management through Scottish Enterprise.

8. We are also taking action to reduce waste from the public sector:

- We have provided resources to local authorities to audit their own waste and draw up internal waste prevention plans.

- The Environment Minister has asked non-departmental public bodies sponsored by the Executive to produce Environmental Management Statements, which include their work on waste.

- Envirowise are working on audits of NHS waste.

- Envirowise has audited the waste produced by some of the main buildings occupied by the Scottish Executive, in line with our objective of minimising our own waste.

9. In relation to household waste prevention, existing work includes:

- Home composting. By the end of July 2006, the Waste and Resources Action Programme (WRAP) have distributed around 89,000 home composting bins in Scotland since 2004, which reduces the amount of household waste put out across Scotland for collection by between 12,000 to 14,000 tonnes per year. This activity includes on-going support to ensure that the bins are used and has significantly enhanced the levels of home composting in Scotland. The WRAP work has also included the development of a robust model which predicts the reduction of waste which arises from a properly supported home composting programme.

- Real nappies. WRAP have also supported work on real nappies and estimate that this has led to a reduction of between 3,000 and 4,000 tonnes per year in the amount of household waste produced in Scotland.

- Provision of information. Information for householders on how to reduce waste is available on the Scottish Waste Awareness Group’s (SWAG’s) website. such as, for
example, in the SORTIT section of SWAG’s website:  http://www.sort-it.org.uk/cat.asp?Rtype=Reduce&AuthID=99

- **Community sector projects.** We have supported some waste prevention projects run by the community sector through INCREASE, our grant scheme for the community recycling sector. ROWAN in the Highlands is an example of a community sector waste prevention project:  http://www.rowanweb.org.uk/

- **Retailers.** WRAP is working with the main UK retailers and leading brands to reduce waste from products and packaging, with support from its Innovation Fund. The WRAP business plan has an aim of reducing 160,000 tonnes of packaging across the UK by 2008, to offset projected growth, and a total of 340,000 tonnes by 2010. This is in line with the Courtauld Commitment, signed by the retailers and WRAP which aims to design out packaging waste growth by 2008; deliver absolute reductions in packaging waste by March 2010 and identify ways of tackling the problem of food waste. So far, WRAP has achieved 42,000 verified UK tonnes from the relatively few projects which have completed.

10. WRAP has also undertaken several detailed research projects into different aspects of packaging and food waste, including a review of self dispensing, refill and other innovative packaging from around the world. More information can be found at http://www.wrap.org.uk/waste_minimisation/retail_innovation/international_packaging_study/index.html WRAP has also calculated the “best in class” weights for the packaging associated with a number of high volume retail projects. This has shown that, across the UK, over 200,000 tonnes of waste could be avoided if the top 15 grocery products all moved to the current “best in class” weight.

**Future waste prevention work**

11. Following our consultation, we and SEPA are currently drawing up a Household Waste Prevention Plan on what further work can be undertaken. Some of the further work required may need to take place at a UK (or EU) level to be effective, and may require primary legislation at some point. Areas we intend to take forward following the consultation are outlined below.

**Product Design and Manufacture**

12. Work in this area is more likely to be for the long term and may often require action at EU or UK level rather than at a Scottish level. It is important to link waste minimisation with other key environmental objectives, such as energy and water conservation, to ensure a consistent and co-ordinated approach. Action we intend to take includes:

  - We will take a strategic approach to work being carried out in Scotland on sustainable design and sustainable products, to ensure that this work is co-ordinated and communicated.

  - We will consider further work with the UK Government, and bodies sponsored by the UK Government, on sustainable design and sustainable products. Envirowise, which we sponsor along with the other administrations in the UK, already offer
“DesignTrack” visits, designed to reduce the environmental impact of products. 
http://www.envirowise.gov.uk/page.aspx?o=designtrack

- We will work, with professional institutions and others, to promote environmental sustainability in key academic and training courses in areas such as design, engineering and architecture. However, Government does not control or decide the contents of academic courses.

- We will work with the UK Government, and other bodies such as WRAP, to try and ensure that environmental issues are taken into account when British and European Standards are drawn up.

- We will also work with the UK Government to try and ensure that there is no conflict between the EU Single Market (which guarantees that products meeting certain standards enjoy free movement across the EU) and the environmental sustainability of products.

- Producer responsibility is in place in some areas, such as packaging. At the EU level, the Batteries Directive has been agreed and this will introduce producer responsibility to this area. We will continue to consider whether any further producer responsibility measures should be introduced. It is preferable to introduce producer responsibility at a UK rather than a Scottish level. Sections 93 to 95 of the Environment Act 1995 lay down that the benefits from producer responsibility introduced as a result of domestic (rather than EU or international) legislation must be significant.

Retailers

13. Work here is likely to be more effective at a UK level. As previously mentioned, the Scottish Executive, along with DEFRA, is already supporting work by WRAP to minimise waste from products and packaging and to address food waste. Action we intend to take following our consultation includes:

- WRAP intend to produce packaging guidelines and other tools for retailers and leading brands, and will work through the Courtauld Commitment to have these embedded in companies’ standard procedures. This will be reinforced by targeted marketing and communications briefings to relevant staff.

- WRAP is also intending to extend the Courtauld Commitment to leading brands and to other retail sectors such as the DIY sector and will continue to run calls for applications to its Innovation Fund, focussed on areas where there are particular opportunities to prevent household waste.

- WRAP are doing research on the causes of food waste, and what can be done to reduce such waste. Some food waste (eg householders removing tops of carrots when cooking) is inevitable whilst other food waste (eg householders throwing food out that they have not eaten) may be avoidable. Once we have the results of WRAP’s research, we will consider what action we should take. Action to reduce food waste may require steps to be taken by food producers, packaging companies, retailers and consumers.
- We will work with retailers and others to reduce food waste from retail outlets.

- WRAP are working with retailers on “smarter” packaging, and more sophisticated labelling, which may enable food to be kept for longer before going off.

- The Food Standards Agency has the departmental lead for food labelling and is working to improve consumer understanding of “use by” information along with monitoring and reviewing the use of terms such as “fresh”. We will work closely with the Agency to disseminate information in Scotland.

- We will monitor work on the introduction of “reverse vending” facilities (where consumers post their used containers into a machine and often receive a cash refund or other award). We will keep deposit and return schemes under review.

- We will encourage any awards for retailers to take account of environmental issues.

Consumers

14. Key issues here are ensuring that consumers have enough information on the environmental implications of their purchasing decisions. We also need to ensure that there is a good take-up of, and continued participation in, home composting.

- We will consider the scope for providing better information to Scottish consumers on the expected life span of products, so that consumers have better information when they purchase products on how long it will be before they will need to be replaced. There are links here with the guarantees provided for products and the availability of spare parts for repairs.

- We will seek to raise awareness amongst both consumers and business of the Packaging (Essential Requirements) Regulations 2003 (which contain provisions on excess packaging). We will also provide better advice to consumers on how to complain about excess packaging.

- We will consider if better information can be provided to consumers on the role packaging plays (much of it is essential to ensure consumers can have safe and intact products) and on the cost of packaging. We will also consider if consumers require more information on the environmental impact of products.

- WRAP’s research on food waste indicates low consumer awareness that the optimal temperature for storing food in householders’ fridges, to stop it going off, is 5° Centigrade. Few consumers have thermometers fitted in their fridges. We will consider if we could run an awareness campaign on this issue.

- We will take further steps to raise awareness of the Mailing Preference Service and other ways of reducing unwanted mail.

- WRAP intend in 2007/08, working with local authorities, community groups and Master Composter Schemes, to extend their home composting work to include most
authorities in Scotland. We are considering how the contribution home composting makes to landfill diversion could be properly recognised in the Landfill Allowance Scheme, which imposes limits on the amount of biodegradable waste local authorities can landfill.

- We will consider, with WRAP, local authorities and the Community Recycling Network for Scotland, if there is scope for targeted schemes to encourage the use of food digesters, to supplement home composting.

Communities

15. A key issue here is to ensure that communities have information on how to re-use and exchange goods, in order to minimise waste.

- We will draw up a re-use framework for Scotland. This will include issues such as: encouraging local waste exchanges amongst households and websites listing second-hand products; improving re-use facilities at Recycling Centres; ensuring, wherever possible, that bulky uplifts collected by local authorities are put to good use; discouraging householders from putting re-useable items in the residual waste bin; work to ensure that left-over paint is used up rather than thrown away; encouraging the further re-use of goods such as furniture, carpets and mattresses and learning from experience of re-use in other jurisdictions (e.g. Flanders).

- We will work with the Community Recycling Network for Scotland and others to encourage more community composting in Scotland.

- We will support community sector work, through our existing INCREASE programme, on provision of in-depth advice to householders on waste prevention.

- We will consider if changes should be made to the legislation on recycling credits. We are already working with local authorities and the community sector to provide a simplified procedure for Strategic Waste Fund awards to local authorities to support community sector work.

- The Scottish Executive already supports Eco-Schools, which helps ensure that schoolchildren are aware of their potential impact on the environment. We will consider, with Eco-Schools, if more could be done to promote waste prevention as part of their work.

- We are considering, with SWAG, if any updates should be made to our overall messages to householders on steps that can be taken to prevent waste.

Local Authorities

16. Decisions taken by local authorities can have a significant impact on the generation of residual household waste. Reducing the frequency of collection of household waste to fortnightly, although sometimes unpopular locally, can drive recycling and reduce the amount of waste that is generated in the first place.
A number of authorities in Scotland are already using their powers under section 46 of the Environmental Protection Act 1990 to require the use of certain bin receptacles to drive recycling. We will consider issuing guidance on this issue.

WRAP have already issued guidance to authorities in England on fortnightly collections of residual waste. We have made this guidance available to authorities in Scotland and will continue to provide guidance, as required.

We will consider if guidance should be issued to local authorities on the size of bins.

Regulation 4 and Schedule 2 to the Controlled Waste Regulations 1992 specify types of household waste for which a charge for collection may be made. We will consult CoSLA on whether any amendments should be made to Schedule 2 and whether guidance should be issued to authorities on the use of their powers in this area.

We will keep direct variable charging (direct charging of households for the collection and disposal of waste, with the charge varying depending on how much residual waste is produced) under regular review.

WRAP have commissioned research on the collection of biowaste (green waste and kitchen waste). We will disseminate the results of this research in Scotland, once the results are available. We intend to carry out a number of trials in Scotland on the collection (and composting) of food waste.

We will keep under review whether further bans could be introduced on the landfilling of certain materials, in addition to the bans already in place on landfilling tyres and waste in liquid form. Such bans could only be introduced when there is a good alternative outlet for the materials (e.g. recycling or composting). Sufficient time would also have to be given to allow the market to adapt. We would also need to consider practical issues, such as whether it would be possible to enforce bans properly.

We have consulted on setting targets for public bodies on the specification of recyclate in relation to construction and paper contracts and intend to write to public bodies shortly to lay targets down.

WRAP is extending their procurement guidance for construction to cover waste minimisation and waste management as well as specifying recycled content. We will also consider providing advice to local authorities on how to encourage waste minimisation when letting other contracts.

We will consider, with CoSLA, if local authorities require more training on waste prevention.

Along with SEPA, we intend to draw up our household waste prevention plan by the end of 2006. We will keep the Committee closely informed on progress.
Consultees' Comments on Plastic Bags

18. Of the forty two questions included in the consultation, two questions were specifically related to plastic bags: one asking which of a range of options the consultee would prefer and the second asking what priority the consultee felt should be given to the issue. The options offered were:

- Option 1: No action on plastic bags;
- Option 2: The development of voluntary measures;
- Option 3: A levy on plastic bags;
- Option 4: A levy on the suppliers of plastic bags;
- Option 5: A levy on both plastic and paper bags;
- Option 6: An outright ban on plastic bags.

19. Of the 170 responses received, 91 were from organisations and 79 from individuals. 86 responses were solely on the issue of plastic bags. While the majority of those responding solely on plastic bags were in favour of no action, those who replied to the consultation as a whole displayed equal support for voluntary measures or a levy. There was a campaign against the levy (choosing Option 1: no action), which included 37 responses using a standard template. The table below provides more detail.

<table>
<thead>
<tr>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
<th>Option 4</th>
<th>Option 5</th>
<th>Option 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whole consultation respondents</td>
<td>11</td>
<td>21</td>
<td>21</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>Plastic bag only respondents</td>
<td>78</td>
<td>3</td>
<td>2</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>TOTAL</td>
<td>89</td>
<td>24</td>
<td>23</td>
<td>5</td>
<td>11</td>
</tr>
</tbody>
</table>

Those favouring no action gave the issue no or low priority, while those favouring voluntary measures or a levy generally felt the issue merited high priority.

<table>
<thead>
<tr>
<th>No priority</th>
<th>Low priority</th>
<th>Medium priority</th>
<th>High priority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whole consultation respondents</td>
<td>3</td>
<td>13</td>
<td>3</td>
</tr>
<tr>
<td>Plastic bag questions only respondents</td>
<td>39</td>
<td>35</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>42</td>
<td>48</td>
<td>3</td>
</tr>
</tbody>
</table>

VAT

20. We sought advice from Treasury on the possible application of VAT if a levy on plastic bags should be introduced. Treasury have advised that where a bag is given out by a retailer free of charge and only the levy itself is charged, VAT would not be payable on the amount of the levy. However, when a charge is made by a retailer for the bag itself, VAT would be payable on both the charge made by the retailer and the levy. An example is set out below:
Scenario A: No charge for the bag itself
Levy of 10p charged
No VAT payable

Scenario B: Bag provided at a charge of 10p
Levy of 10p charged
VAT payable on 20p

This advice was received from HM Treasury based on the Bill as it currently stands. If amendments were to be made to the Bill, further clarification would have to be sought. A copy of the Treasury's advice is available at Annex B.

Diversification within the Plastics Industry

21. We wrote to the plastics industry, asking for their views on the potential for diversification within their industry. Their replies can be found at Annex C. We have received responses from the Federation of Small Businesses (FSB), British Polythene Industries (BPI) and the Packaging and Industrial Films Association (PIFA). We have also received a letter from the Chief Executive of Scottish Enterprise.

22. The FSB has suggested that it is unlikely that a small business would have the resources to diversify. PIFA has suggested that diversification by larger manufacturers and distributors is also unlikely. PIFA suggested that such organisations have invested heavily in bespoke manufacturing equipment, as well as specialised warehousing, which could not be used for other purposes. They add that costs and cash flow issues would further prohibit any diversification. BPI likewise cited the highly specialised nature of equipment as a major barrier to diversification.

Voluntary Code of Practice on handing out Plastic Bags

23. The Scottish Executive, working with DEFRA, the Welsh Assembly Government and the Department of Environment Northern Ireland have been developing a draft Code of Practice. An outline of this draft Code of Practice can be found at Annex D. We, along with DEFRA, the Welsh Assembly Government and the Department of Environment Northern Ireland, are seeking views from retailers on what steps they are prepared to take to reduce the use of bags. As the Committee will be aware, Tesco have indicated that they intend to reduce the use of plastic bags by 25% and have recently announced that customers will be given points on Tesco's loyalty card for re-using bags.

24. On behalf of the Scottish Executive and DEFRA, WRAP carried out a trial ("Choose to Reuse") in Edinburgh and Bristol last year, to encourage the re-use of bags. Whilst this trial did not lead to an overall increase in re-use, the findings show that people in both cities became more aware of the issues and the more mature groups – those over 55 years of age – did take action to increase their reuse of bags.

SEPA's Views on the AEA Technology Report

25. The full report from SEPA is included at Annex E. In brief SEPA conclude:

(i) The Levy could have significant benefits as an anti litter measure, but at the present time there is a lack of evidence on whether or not there is a real problem with plastic bag litter in Scotland, or just the perception of a problem.
(ii) The Irish experience would suggest that it would have little effect on the disposal of plastic to landfill.

(iii) A Levy could be a significant factor in raising public awareness of environmental issues, as part of a range of waste prevention measures. But there is no direct evidence to support this.

In terms of the wider environmental effects of the Levy and sustainable development;

(iv) The AEAT report does provide a reasonable picture of the relative environmental impacts of the different types of shopping bags looked at.

(v) Any environmental benefits from the Levy would at best be modest.

(vi) The Levy should be applied to all one trip disposable shopping bags.

(vii) The industries in Scotland should be given transitional time to diversify into other areas of production, for example bags for life.

Conclusions

26. The Committee is invited to:

- Note the work the Scottish Executive is already doing to promote waste prevention.

- Note the areas we consider could be taken further, following our consultation on waste prevention.

- Note the summary of responses from consultees on plastic bags.

- Note the advice from Treasury on the application of VAT to the levy as currently proposed in Mr Pringle's Bill.

- Note the views of the plastics industry on their scope for diversification if a levy should be introduced.

- Note the comments by SEPA on the AEAT report on plastic bags.

Waste Strategy Team
Scottish Executive
August 2006
ANNEX A

SUMMARY OF RESPONSES TO WASTE PREVENTION CONSULTATION

PREVENTING HOUSEHOLD WASTE IN SCOTLAND

SUMMARY OF CONSULTATION RESPONSES

The consultation on Preventing Household Waste in Scotland was published by the Scottish Executive and SEPA on 6 February and ran until 28 April 2006.

Findings from the analysis of consultation responses, along with results from a consultation event and focus groups are intended to feed into the development of future plans for household waste prevention and an action plan on household waste prevention in Scotland. Results will also help to provide evidence to the Environment and Rural Development Committee on the Member’s Bill proposing a levy on plastic bags.

The consultation posed a series of 42 questions, focusing on the main issues raised in the consultation document, and which were divided into 5 main sections: product designers and manufacturers, retailers, consumers, communities and local authorities.

A total of 170 responses to the consultation were received comprising 91 responses from organisations and 79 from individuals. Among organisations, the largest number of responses received was from local authorities while the consumer and political party subgroups each submitted one response.

While the consultation document offered 42 questions for consideration, over half of all respondents (86) focused solely on the issue of the impact of plastic bags on the environment. This included a letter campaign which produced 37 identical responses. Table 1 below summarises the respondent profile.

Table 1
Respondent profile

<table>
<thead>
<tr>
<th>Respondent Type</th>
<th>Number of respondents</th>
<th>Percentage of respondents (%)</th>
<th>Respondents plastic bags issue only</th>
<th>Respondents other questions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic / professional</td>
<td>3</td>
<td>2</td>
<td>-</td>
<td>3</td>
</tr>
<tr>
<td>Community council</td>
<td>9</td>
<td>5</td>
<td>-</td>
<td>9</td>
</tr>
<tr>
<td>Community sector</td>
<td>11</td>
<td>6</td>
<td>-</td>
<td>11</td>
</tr>
<tr>
<td>Consumer</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Local authority</td>
<td>20</td>
<td>12</td>
<td>-</td>
<td>20</td>
</tr>
<tr>
<td>Manufacturer</td>
<td>8</td>
<td>5</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Other public body</td>
<td>3</td>
<td>2</td>
<td>-</td>
<td>3</td>
</tr>
<tr>
<td>Packaging</td>
<td>16</td>
<td>9</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>Political party</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Environment NGO</td>
<td>2</td>
<td>1</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Retailer</td>
<td>8</td>
<td>5</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Service industry</td>
<td>9</td>
<td>5</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Sub-total Organisations</td>
<td>91</td>
<td>54</td>
<td>22</td>
<td>69</td>
</tr>
</tbody>
</table>
In summarising the responses the same broad categories have been used as included within the original consultation.

**PRODUCT DESIGN AND MANUFACTURERS**

1. *Do consultees consider that the Scottish Executive, SEPA and the Enterprise Networks, or other bodies sponsored by the Executive, such as Envirowise, should do more to promote eco-design in Scotland?*

2. *Should the Scottish Executive and SEPA carry out further work on “waste profiles” of products? If so, what?*

3. *Do consultees consider that the Scottish Executive should take further action in relation to the life-span of products? If so, what?*

4. *Bearing in mind that some products are always likely to be disposable, do consultees consider any action should be taken at EU, UK or Scottish level to minimise waste from disposable products? If so, what?*

5. *Would it be desirable and/or feasible to run an Integrated Product Policy pilot in Scotland? If so, for which product(s)?*

In summary,

- There was broad agreement for the need to promote eco-design in Scotland, although preferences for the best way to achieve this varied.

- There was also support for carrying out further work on the waste profiles of products, although views varied over which organisations should be involved in working on this. The highest level of support was for working with other government departments across the UK on either waste profiles or environmental profiles.

- In terms of product life span specifically, a need was defined for providing better information to consumers and providing more support to companies. There were also suggestions for changes to marketing materials to help encourage consumers to move away from a “disposable” lifestyle to one based on repair and recycling.

- For disposable products specifically, highest levels of support were for the introduction of producer responsibility legislation for disposable products.

A key theme emerging across all these issues was a need for campaigns to raise awareness of these issues or for education campaigns to help encourage better understanding of issues in relation to product design. Responses pointed to the need for a wide range of different bodies and organisations to work together on product design. The international nature of many of these issues was highlighted, with suggestions that some of these should be dealt with at a UK or EU level.
6. Do consultees consider that there is a need for guidance and support for retailers to build waste considerations into their procurement process? If yes, what guidance and support would be useful? It may be preferable to take this work forward at a UK, rather than Scottish, level.

7. Do consultees consider that retailers and their employees could do with further training, support and guidance on waste issues? If so, what?

8. Do consultees consider that food labelling requirements cause any conflicts with waste prevention? If so, what are these conflicts and what can be done to reduce them?

9. Do consultees consider that more could be done to collect and use surplus food from wholesalers, retailers, caterers and other outlets? If so, what?

10. Do consultees consider that action should be taken to reduce food waste in the home? If yes, what action should be taken? One possibility might be to produce guidelines on retail promotions and their waste implications. Legislation in this area might be time consuming, disproportionate and, in any event, more suitable at UK rather than Scottish level. Another option could be increased use of re-sealable packaging, to help food keep fresh for longer.

11. Do you think the Packaging (Essential Requirements) Regulations 2003 are working? If not, why not? What action could be taken to improve their operation?

12. Could any further action be taken in Scotland to minimise household waste from packaging? If so, what?

13. Do consultees consider more could be done to encourage re-use either through deposit and return schemes or more generally? Options could include “reverse vending” trials in Scotland or trials of deposit and return schemes.

14. Could more action be taken to reduce waste from the retailing of products?

15. Do consultees consider that retailers and manufacturers could provide more and better information on waste issues to their consumers? If so, what do consultees consider should be done?

16. Do consultees consider that an annual Waste Aware Scotland award for the retail sector would be useful? If so, what form should this take?
In summary,

- There was broad agreement for a need for guidance and support for retailers to build waste considerations into their procurement process, and some suggestions that legislation is needed to back this up.

- Many consultees also voiced the need for further training for retailers and their employees. However, views were split as to what organisations should have responsibility for its delivery and there were comments that training needs to be tailored to different sectors and/or products.

- In terms of food waste specifically, there was a need for retailers to provide information to consumers, and that information relating to health and hygiene issues specifically should take priority over any packaging issues.

- There was general agreement that more could be done to collect and use surplus food from wholesalers, retailers, caterers and other outlets, along with support for greater promotion of schemes in relation to this.

- A majority of consultees perceived a need to educate consumers on issues in relation to food waste, although there were suggestions that retailers also need to consider actions they can undertake to help reduce levels of consumer food waste.

- Views were relatively split as to whether the Packaging (Essential Requirements) Regulations 2003 are working. Some consultees noted that there is a lack of awareness on the part of some of these regulations and others commented on a lack of enforcement.

- While views were split over which specific options could be utilised to minimise household waste from packaging, a majority of consultees supported some form of action. Other comments included suggestions for an increase in the number of collection schemes or recycling sites.

- While there was support for re-use through deposit and return schemes, concerns were raised over their practicality and implementation or the type(s) of products best suited to these schemes.

- There was broad support for more action to be taken to reduce waste from the retailing of products, although views on how this could be brought about varied.

- Almost half of the consultees perceived a need for retailers to provide consumers with information and noted the importance of any information being clear, meaningful, useful and accessible.

- Offering a Waste Aware Scotland Award was perceived to be a positive move by around half the consultees.
CONSUMERS

17. Do consultees consider that further action should be taken to make it easier for consumers to raise environmental and waste issues with retailers and other providers of goods and services? Possible actions could include the provision of further information by Government, consumer bodies and retailers on how to complain about excessive packaging and waste.

18. Do consultees consider that environmental loyalty cards should be run in Scotland? It is likely that any such cards would have to be run by retail outlets. Is there any role here for the Scottish Executive and/or SEPA?

21. Do consultees consider that further action should be taken in relation to unwanted mail and leaflets? If so, what?

22. Do consultees consider that further action could and should be taken to promote home composting, food digesters or wormeries in Scotland? If so, what?

In Summary,

- There was majority support for further action to be taken to make it easier for consumers to raise environmental and waste issues with retailers and other providers of goods and services. That said, there were also suggestions that consumers need to be educated to raise their awareness of the issues or how they can complain about excessive packaging. There were also suggestions of a need for a change in consumer attitudes to create less of a "disposable goods" lifestyle.

- There was a level of support for some form of environmental loyalty card, although there were some concerns about how such a scheme would operate.

- In terms of unwanted mail specifically, a number of respondents noted the need for an increased awareness and promotion of the Mail Preference Service.

- There were calls for more composting initiatives and for wider publicity for existing initiatives.

PLASTIC BAGS

19. The consultation document listed 6 options in relation to plastic bags. And asked “Which of the above options would consultees prefer in relation to the use of plastic bags?”

The options were:
Option 1: to take no action specifically on plastic bags.
Option 2: to promote voluntary measures by retailers and other bodies handing out plastic bags.
Option 3: to introduce a levy on plastic bags, as proposed in Mr. Pringle’s Bill.
Option 4: to introduce a levy ‘upstream’ (on suppliers of bags).
Option 5: to extend the levy to paper bags as well as plastic bags.
Option 6: to ban the supply of plastic bags to consumers altogether.
20. **What priority do consultees consider the Executive should give to reducing the use of plastic bags in the context of work to promote household waste prevention generally?**

In summary,

- When faced with a variety of options in relation to the use of plastic bags, the majority of consultees felt that no action should be taken. The two other options attracting a level of support were for either promotion of voluntary measures by retailers and other bodies handing out plastic bags or for the introduction of a levy on plastic bags, as proposed by Mr Pringle’s Bill. A number of consultees felt that plastic bags are already re-used by many households.

- In considering the priority that the Scottish Executive should give to reducing the use of plastic bags, there was a distinct difference of opinion between those who responded solely to the questions on plastic bags and those who responded to the consultation as a whole. Consultees who dealt only with questions 19 and/or 20 on plastic bags felt that this issue should be given no priority or low priority. Analysis of responses from those responding to the whole consultation show the greatest number considered that this issue should be given high priority. In combining all responses, a small majority are in favour of assigning a low priority.

**COMMUNITIES**

23. Do you consider more could be done to promote the re-use, repair and second-hand sector in Scotland? If so, what?”

24. Do you consider more work should be done to take a Scotland-wide over-view of the re-use of products such as furniture, paint and carpets? If so, what?

25. Do you could consider more could be done to promote community composting in Scotland? If so, what?

26. Do you think that current community waste funding sources are designed to encourage waste prevention projects? If not, what changes do you think are required?

27. Do consultees consider recycling credits should be mandatory? If so, why?

28. Do consultees consider that recycling credits should be extended to re-use and/or waste prevention?

In summary,

- There was a general view that more could be done to take a Scotland-wide overview of the re-use of products such as furniture, paint and carpets, although many cited a need for more information or education for consumers and encouragement for those working in the re-use and repair sector. That said, there were also comments that it can be difficult to persuade consumers to consider re-use or repair for some low cost items. There were also suggestions for a sustainable and national network of schemes and the social benefit that this can bring to Scotland.
• The concept of community composting was supported by some consultees, although views were that this would work better in some communities than others.

• Views on whether current community waste funding sources are designed to encourage waste prevention projects were limited.

• A greater number of consultees supported making recycling credits non-mandatory rather than mandatory. Alternatives suggested including giving local authorities decision making powers on this issue or development of service level agreements. There was also less support for extending recycling credits to re-use and/or waste prevention.

LOCAL AUTHORITIES

29. Do consultees consider that there would be merit in a similar approach to Barnet’s (making use of certain receptacles mandatory, to encourage recycling) being adopted by local authorities in Scotland? Clearly, before authorities in Scotland took any action of this type, they would need to be satisfied about the scope of the existing legislative powers in Scotland.

30. Should the Scottish Executive consider action in relation to the size of bins for residual waste provided by local authorities and/or the frequency of collection by local authorities? If so, what action should be taken?

31. Do you think that further research and guidance is required on green waste composting to minimise the effect on waste arisings?

32. Should the Scottish Executive consider amending the existing regulations allowing charges to be made for the collection of other types of household waste? If so, what changes should be made, and why?

33. Should the Scottish Executive consider issuing guidance on charging for special uplifts of bulky items and garden waste? If yes, what should the guidance say?”

34. Do consultees consider that it would be helpful to consider further the issues about “direct variable charging”? The next step would be to issue a full consultation paper on this subject, outlining the arguments for and against and the financial implications.

35. Do consultees consider the Scottish Executive should carry out further work on incentives? If so, what? One option would be trials of incentives with a number of authorities.

36. Do consultees consider that waste management contracts/service level agreements should include incentives for waste prevention? If yes, how is this best achieved? Do consultees consider that waste management contracts/service level agreements can currently include perverse incentives to increase the generation of waste? If yes, what can be done to tackle this?

37. Do you consider that contracts (other than waste management) let by local authorities have scope for provisions on waste prevention? If so, which ones? There is clear scope to minimise waste in construction, although this may not impact on household waste. The best time to make adjustments to contracts may be when they are due to be renewed/re-ltet.
38. *Should the Scottish Executive take action to ensure local authorities do more on waste prevention? If so, what?*
39. *Should the Scottish Executive lay down targets on local authorities in relation to waste prevention? If so, what should these targets require and how would this be measured?*
40. *Do local authority officers require more training on the skills needed to encourage waste prevention? If so, what training is required and who should provide it?*
41. *Do consultees have any comments on the allocation of Strategic Waste Fund resources to waste prevention work?*

In summary,

- A number of consultees agreed with the proposal for Scottish local authorities to adopt a similar approach to that adopted in the London Borough of Barnet, and some noted that some local authorities already operate similar schemes.

- When asked specifically about the size of bins provided by local authorities for residual waste, the greatest level of support was for advice on the size of residual bins and frequency of collections (the highest level of support coming from local authorities). However, there were some comments that services need to be tailored to specific areas or types of household.

- In terms of green waste collection specifically, there was support for further research and guidance on green waste composting to minimise the effect on waste arisings. Again, there were some calls for this to be tailored to individual areas. There were some concerns that kerbside collection serves to discourage composting.

- Although there was support for the Executive to consider amending the existing regulations allowing charges to be made for the collection of other types of household waste, there were some concerns over a possible increase in fly-tipping or other illegal disposal practices.

- Views on whether or not the Executive should consider issuing guidance on charging for special uplifts of bulky items and garden waste were split. If guidance is to be issued, the main point raised by consultees was the need for a fair, consistent, basic charging structure and guidance on this.

- From those commenting, there was majority support for direct variable charging. Similarly, there was majority support for the Executive to carry out further work on incentives, with some consultees noting the importance of “positive” measures to help bring about waste awareness. A pilot scheme was suggested by some consultees.

- A greater proportion of consultees agreed with the proposal for waste management contracts or service level agreements to include incentives for waste prevention than disagreed. A significant number also noted that there was scope for provisions on waste prevention in local authority contracts.

- A majority of consultees agreed that the Executive should take action to ensure local authorities do more on waste prevention, although funding for this was perceived by some
to be an issue. It was also noted that other types of organisations also have a part to play in this. In terms of setting targets for local authorities in relation to waste prevention, a greater number of consultees agreed with this than disagreed, although there were some queries as to what targets should be set against. Some respondents also noted a need for training in this area.

OTHER ISSUES

42. Are consultees aware of any other action which could be undertaken to prevent waste? If so, what?”

The majority of comments from the 50 respondents answering question 42 summarised or reiterated points already made in their answers to previous questions.

The main points that were highlighted included:

- Education and raising awareness (11 respondents);
- Following successful examples from overseas countries (4 respondents);
- The need to change habits and attitudes (3 respondents);
- The need for manufacturers and retailers to play a part in waste reduction (3 respondents);
- The need for an holistic approach rather than individual initiatives (3 respondents);
- The anomaly in LATS regarding home composting (2 respondents);
- Facilities for recycling plastic (2 respondents);
- The need for action across all sectors (2 respondents);
- More work on eco-footprints (2 respondents).

CONCLUSIONS

Building on the results of this consultation, the Scottish Executive and SEPA plans to develop a Waste Prevention Action Plan.
LIST OF RESPONDENTS

Aberdeen Council
Accounting Services
Argyll & Bute Council
Association of Charity Shops
Ayrshire Household Recycling
B P I
Baggit Ltd
Belhelvie Community Council
Biobags Scotland Ltd
British Glass Manufacturer's Confederation
British Polythene Industries plc
British Property Federation
British Soft Drinks Association
Bunzl Retail
C B I Scotland
CRNS
Centre for Sustainable Consumption
City of Edinburgh Council
Community Repaint Project
Confederation of Paper Industries
Co-Operative Group
Crathes, Drumoak and Durras Community Council
Deer Community Council
Delux Blinds
Duddingston Wholesale Bakery Ltd
Dumfries & Galloway Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Esplanade Protection
East Lothian Council
Federation of Small Businesses
Friends of the Earth
Furniture Re-Use Network
Glasgow Packaging and Printing Ltd
Green Options
Heldon Community Council
Hendry Site Catering
Highland Council
Highlands & Islands Enterprise
HRNP
Industry Council for Packaging & The Environment
Inverclyde Council
LACORS
Larbert and Ste Monceau & Torwood

Community Council
Link Sustainable Scotland Task Force
Lochaber Environmental Group
Lothian & Borders Business Waste Aware Sub-group
Lothian and Edinburgh Environmental Partnership
M V G S
Macsnacks
Marks & Spencer
Mid Deeside Community Council
Midlothian Council
Moray Council
Moray Waste Busters
Munchables
New Pitsligo Community Council
NI Block Environmental Ltd
North Ayrshire Council
North Lanarkshire Council
Nova Mont SpA
NSCA Scotland
Packaging and Industrial Films Association
Perth and Kinross Council
Picnics Catering
Renfrewshire Council
Scottish Consumer Council
Scottish Environmental Services Association
Scottish Food and Drink Federation
Scottish Green MSPs
Scottish Grocers Federation
Scottish Natural Heritage
Scottish Retail Consortium
SIMPAC
South Ayrshire Council
Stonehaven and District Community Council
Thornhill & Blair Drummond Community Council
Trading Standards Institute
Valpac Ltd
W F Scotland
Waste + Resources Action Programme
West Calder Express Ltd
West Dunbartonshire Council

20
ANNEX A Cont’d.

SUMMARY OF RESPONSES TO WASTE PREVENTION CONSULTATION
- EXCERPT FROM LONG SUMMARY

CHAPTER 8: PLASTIC BAGS

A Member’s Bill seeking to impose a levy on plastic bags has been introduced and considered by the Environment and Rural Development Committee of the Scottish Parliament. The Committee asked that the Minister report back by the end of August 2006 and findings from this consultation will inform that report.

Over half (86) of all responses received dealt solely with the issue of plastic bags; these responses only provided answers to the questions which deal with this issue (questions 19 and/or 20). A standard letter was produced as part of a coordinated campaign from industry and this was submitted by 37 respondents. Additional letters contained standard paragraphs or quotes. Some respondents had already made a submission or given evidence to the Environment and Rural Development Committee and some of these were appended to responses.

8.1 PLASTIC BAGS

The consultation document listed 6 options in relation to plastic bags. And asked “Which of the above options would consultees prefer in relation to the use of plastic bags?”

The options were:
Option 1: to take no action specifically on plastic bags.
Option 2: to promote voluntary measures by retailers and other bodies handing out plastic bags.
Option 3: to introduce a levy on plastic bags, as proposed in Mr. Pringle’s Bill.
Option 4: to introduce a levy 'upstream' (on suppliers of bags).
Option 5: to extend the levy to paper bags as well as plastic bags.
Option 6: to ban the supply of plastic bags to consumers altogether.

This question attracted the largest response of any question in the consultation with 149 respondents commenting.

As seen in table 8.1, over half (89) of all respondents felt that no action should be taken. This figure includes 78 of those responding solely to the plastic bag questions and 11 other respondents. Twelve respondents from the packaging sub-group and 61 individuals felt no action should be taken. Some respondents did not state a preference.

There was support from 24 respondents for Option 2 (to promote voluntary measures by retailers and other bodies handing out plastic bags) while preferences for this came
from most of the different groups of respondent, the highest level of support for this option came from local authorities.

The 23 respondents supportive of a levy as proposed in Mr Pringle’s Bill included the respondent from the consumer sub-group who commented “Charging consumers for their use of plastic bags can be an important element in awareness raising of environmental issues and a potential catalyst for wider behaviour change”. Six respondents commented that some retailers already make a charge or do not provide plastic bags.

Table 8.1
Preference for options given at question 19

<table>
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<tr>
<th></th>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
<th>Option 4</th>
<th>Option 5</th>
<th>Option 6</th>
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<td>2</td>
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<td>Plastic bag only respondents</td>
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<td></td>
<td>1</td>
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<td>TOTAL</td>
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<td>23</td>
<td>5</td>
<td>11</td>
<td>7</td>
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</table>

A key theme, in 93 responses, was that plastic bags are widely reused in households. By banning or charging for them, waste from other sources such as bin liners would rise, as would methane from paper bags and emissions from lorries. One retailer noted,

“We do not believe that a carrier bag levy would be proportionate to the scale of the environmental impact. Carrier bags are already subject to levy’s resulting from the Waste Packaging Requirements. However, if the Executive considers the waste created by carrier bags at 0.3% of the municipal total is sufficient to warrant additional action we believe that a blanket carrier bag tax (option 5) would create the best mix of environmental and economic benefits”.

22
Studies have shown that plastic bags make up only 0.3% of the municipal waste stream and 54 respondents commented that plastic bags have very little environmental impact.

Concerns that a levy would penalise poorer households, the elderly or those without access to cars were raised by 14 respondents.

Ten respondents mentioned that local authorities might find collection of the levy difficult and suggested that it be collected at tills. A further 7 respondents voiced concern over the administrative burden and associated costs of implementation should a levy be imposed. Concern that any levy might lead to job losses was also raised by 9 respondents and this included 4 from the packaging sub-group.

Six respondents commented that, as a source of litter, plastic bags are both highly visible and a danger to wildlife.

Suggested exemptions to a levy included compostable bags (2 respondents) and charity shops (1 respondent).

Other comments included:

- More information for consumers to allow them to make an informed choice (4 respondents);
- Comments that the levy had been successful in other countries (3 respondents);
- That any funds raised through a levy be directed to waste prevention projects (2 respondents);
- That the term “plastic bags” needs a clearer definition (2 respondents);
- Any action taken should be at UK level (2 respondents);
- The need for further research (2 respondents);
- That levies in other countries have led to an increase in shoplifting (1 respondent).

At the consultation event, opinion was divided on this subject and amongst the points noted above, the high incidence of re-use, cost implications for charity shops and possible job losses emerged as the main concerns.

At all four focus groups, charging was seen as a positive step that supermarkets could implement to reduce disposable plastic bag use. Other solutions included:

- Provision of biodegradable alternatives such as paper bags
- Greater use of durable bags
- Greater reuse of disposable plastic bags
- Encouragement of plastic bag recycling at supermarkets
- Waste Aware training for supermarket staff.
8.2 PRIORITY

Question 20 asked "What priority do consultees consider the Executive should give to reducing the use of plastic bags in the context of work to promote household waste prevention generally?"

Again, this question attracted a large response; with 112 respondents commenting.

As can be seen in table 8.2, 48 of the consultees responding here favoured a low priority in reducing the use of plastic bags in the context of work to promote household waste prevention generally. A further 42 consultees felt that no priority should be given to reducing the use of plastic bags in the context of work to promote household waste prevention generally.

The majority of the consultees favouring low or no priority were those responding to the plastic bag questions only, while analysis of responses from those who replied to the consultation as a whole shows a different preference with the majority (17) favouring assigning a high priority to this issue.

Table 8.2
Suggested level of priority at question 20 (all assigning priority level)

<table>
<thead>
<tr>
<th></th>
<th>No priority</th>
<th>Low priority</th>
<th>Medium priority</th>
<th>High priority</th>
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<td>-</td>
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<td>-</td>
<td>-</td>
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<td>Local authority</td>
<td>-</td>
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<td>Manufacturer</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td><strong>42</strong></td>
<td><strong>48</strong></td>
<td><strong>3</strong></td>
<td><strong>17</strong></td>
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</table>

In addition to the main points already raised at question 19 and which were then reiterated at question 20, action on plastic bags was seen by 26 respondents (including 8 local authorities) as a symbolic step which would serve to raise awareness of wider waste issues.
"Whilst recognising that the levy would only tackle a component of waste arisings we believe that designed and implemented appropriately, with an accompanying education programme, it would be a highly symbolic step in raising awareness about the need for behaviour change and tackling a largely unnecessary product that is symbolic of our throwaway attitude to resource use."

Environment NGO

Twenty-five respondents suggested that there were more important waste management issues that should be tackled and 4 respondents called for the reintroduction of supermarket boxes or more widespread use of the "bag for life" concept as a way to reduce plastic bag usage. One respondent from the manufacturer sub-group commented "It is important that environmental improvement focuses on those areas of greatest risk. For example, plastic materials account for a small percentage of waste arising (3% waste arisings) compared to paper and cardboard products (26% waste arisings). Discriminating against specific packaging formats should not be allowed."

In summary,

- When faced with a variety of options in relation to the use of plastic bags, the majority of consultees felt that no action should be taken. The two other options attracting a level of support were for either promotion of voluntary measures by retailers and other bodies handing out plastic bags or for the introduction of a levy on plastic bags, as proposed by Mr Pringle's Bill. A number of consultees felt that plastic bags are already re-used by many households.

- In considering the priority that the Scottish Executive should give to reducing the use of plastic bags, there was a distinct difference of opinion between those who responded solely to the questions on plastic bags and those who responded to the consultation as a whole. Consultees who dealt only with questions 19 and/or 20 on plastic bags felt that this issue should be given no priority or low priority. Analysis of responses from those responding to the whole consultation show the greatest number considered that this issue should be given high priority. In combining all responses, a small majority are in favour of assigning a low priority.
Environmental Levy on Plastic Bags (Scotland) Bill

Dear Simon,

Please find attached a response to your letter to Katharine Mansfield of 25th April requesting further evidence regarding the position of VAT relating to the Environmental Levy on Plastic Bags (Bill) Scotland.

Responsibility for VAT policy lies between HM Treasury and HM Revenue and Customs and the position laid out in the note has been agreed by officials within both Departments.

This advice is based on the current form of the proposed legislation. Should substantive changes be made to the nature of the Bill, we would need to consider these carefully as any changes could have an impact on our view of the correct VAT treatment.

I am copying this response to Ian Broadhurst (Her Majesty's Revenue and Customs), Rory Wallace (DEFRA), Andy Rees (Welsh Assembly Government) and Stephanie McCauley (Department of the Environment for Northern Ireland).

Yours sincerely,

Karina Singh
VAT Team Leader
Date: 26 June 2006

Memo

Subject: Proposal for an environmental levy on plastic bags in Scotland - VAT issues

To: HMT VAT Team; HMT Environmental & Transport Taxes Team

From: Ian Broadhurst

Copy: Ian Allan; George Hampson; Simon Woodside; John Lester; Jan Little

Current VAT treatment for bags disposed of for no charge

1. Retailers who give away plastic bags for no charge would normally have to account for VAT on these goods. This is under the provisions in VAT Act 1994 Sch 4 para 8(1) "...where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, that is a supply by him of goods."

2. However, business gifts of low value are excluded from this requirement, under Sch 4 paras 8(2). Therefore the current VAT position, where bags (forming part of the assets of the business) are given away for no consideration, is that no VAT is due on them, as the cost of the bags to each customer falls within the £50, 12-month limit for business gifts. If a separate charge is made for the bags then the normal rules apply and VAT will be due at the standard rate.

VAT treatment of the proposed levy

Where only the amount of the levy is charged on by the supplier (retailer):

3. If the supplier (typically a retailer) charges the exact amount of the levy, and no more, then the levy would not be subject to VAT. This is because the levy would effectively be a statutory levy on the customer. The retailer is essentially recouping/collecting from his customers a levy that he is accountable to pay over to his local authority. Although he can charge more for the plastic bags, he cannot charge less than the amount of the proposed levy. Thus there is no scope for the retailer to absorb this charge, and to continue to give the bags away as at present. This is not generally the case with other indirect taxes, where the price charged is entirely a commercial decision. The aim of the Bill thus appears to be to ensure that the environmental levy is borne by the customer through the agency of the retailer.

4. Furthermore, if it were regarded as consideration for VAT purposes this would lead to a conflict between the two regimes. For example, if the 10p levy were treated as taxable, then we would have to take 7.47% of this amount as VAT. Thus an element of the 10p would actually be VAT rather than the levy. In addition, a VAT-registered customer, who could reclaim this VAT charged on the bag, would not be hit with the full amount of the levy. This
would appear to be inconsistent with the scheme and leads to the conclusion that, to ensure
the full 10p levy is charged on, as dictated by the draft legislation, the actual amount
charged by the retailer would have to be in the region of 12p or 13p to allow for the VAT.
This additional VAT would result, in the majority of cases, in an increase in net additional
revenue for the Exchequer. This does not seem to be the correct analysis for a measure
designed to influence customer behaviour and which is established as a local "tax" with an
obligation to spend all revenue on environmental projects.

5. Accordingly, although European VAT case law has made it clear that payments and fees,
etc., regulated by statute constitute consideration for supplies, (for example, tolls and bailiffs' fees), it is our view that there is a difference between fees, etc., regulated by statute in return
for goods or services, and a charge expressly created by statute as a tax or levy for which:

- there is no option but to levy and collect the full amount of 10p and submit to the local
  authority;
- there is no direct link between the value or benefit of the goods (i.e. quality, size, etc, of
  the bag) and the levy charged;
- there is no commercial competition in relation to the charge; and
- there is nothing which the supplier is entitled to retain for the purposes of his business.

6. In addition to the reasons given above, it is also difficult to contend that an amount
constitutes consideration in circumstances where, having failed to charge that amount, the
supplier is guilty of an offence and liable to a penalty or fine.

Where a supplier charges an amount for the bag in addition to the levy:

7. Where the amount charged by the retailer exceeds the amount of the levy, then the whole
of the amount, including the levy, fails to be consideration for the supply and VAT will be due
on the whole amount. This is consistent with Article 11(1)(A)(2) of the Sixth VAT Directive
(Directive 77/388/EEC), which states that the "...taxable amount shall include: (a) taxes,
duties, levies and charges, excluding the value added tax itself;"

VAT liability of carrier bags and the definition of 'cost':

8. The sale of carrier bags is a taxable supply and subject to VAT. VAT is calculated by
reference to the total amount paid by the customer to the retailer in respect of the bag. This
VAT is then collected from the customer by the retailer with the retailer then paying it over to
HMRC through their VAT Return.

9. Incidentally, the draft legislation does not attempt to define 'cost' in terms of whether the
comparative cost is VAT-inclusive or VAT-exclusive and you may wish to explore this further
with the Bill's author.

VAT registration:

10. The normal VAT registration rules apply. For businesses whose taxable supplies are
below the registration threshold (currently £61,000 p.a.) and who have not chosen to register
for VAT voluntarily, VAT would not be an issue. Where the levy alone is charged then this
amount would not count towards determining whether the business should be registered.
However, where a charge is made for the bags in addition to the levy, then the whole
amount charged will form part of the value of that business's taxable supplies for considering
whether or not they need to be registered.

Caveat

11. Should substantive changes be made to the nature of the proposed legislation, we
would need to consider these carefully, as any changes could have an impact on our view of
the correct VAT treatment.
ANNEX C

DIVERSIFICATION WITHIN THE PLASTICS INDUSTRY

CORRESPONDENCE FROM THE FEDERATION OF SMALL BUSINESSES

FEDERATION OF SMALL BUSINESSES
PRESS & PARLIAMENTARY OFFICE
SCOTLAND

24 BERKELEY STREET
GLASGOW
G3 7DS
TELEPHONE 0141 221 0775 FAX 0141 221 5994
E-MAIL: scotland.office@fsb.org.uk

- 7 JUL 2006

Simon Stockwell
Waste and Pollution Reduction Division
Scottish Executive
1 J-North Victoria Quay
Edinburgh
EH6 6QQ

Dear Simon

Environmental Levy on Plastic Bags (Scotland) Bill

Thank you for contacting the FSB about diversification within the plastic industry should the above Bill be enacted in Scotland.

In our evidence to the Environment and Rural Development Committee we outlined why we could not support the general principles of the Bill; namely that small retail businesses would be disproportionately affected by the Bill as introduced, while there would be little or no environmental benefit. We also referred to evidence submitted by other business organisations, such as the Carrier Bag Consortium, which outlined the potential for job losses in their sector.

The FSB also highlighted the impact on businesses which, while not directly involved in the manufacture of plastic, are engaged in the printing and finishing of plastic bags. We are unaware of the number of businesses engaged in this activity in Scotland, but we have been contacted by one FSB member who owns this type of business.

Our discussions with this business revealed that they had already begun to ask clients about their intentions should the Bill be enacted. The results of this exercise suggested a significant downturn in business which would almost certainly lead to a reduction in employee numbers (currently around 10 employees). It was also suggested that a simple switch to paper bags would not be likely given the increased cost of this product to clients (which are likely to include small businesses). Opportunities for diversification for this type of business appear, therefore, to be limited if there is a general downturn in demand for bags which seems certain if the Bill comes into force.
Representatives from the plastic industry are best placed to advise you of the likely impact on their sector; however, I hope our limited comments are of some use. Please feel free to contact us should you wish to discuss any of these points (including the potential impact on small retail businesses) in more detail.

Yours sincerely

Andy Willox
Scottish Policy Convener
ANNEX C Cont’d.

DIVERSIFICATION WITHIN THE PLASTICS INDUSTRY

CORRESPONDENCE FROM THE PACKAGING & INDUSTRIAL FILMS ASSOCIATION (PIFA)

Ref: DT/SDC

30 June 2006

Mr Simon Stockwell
Scottish Executive
Environment and Rural Affairs Department
Waste and Pollution Reduction Division
1-J-North Victoria Quay
Edinburgh
EH6 6QQ

Dear Simon

1. **RE: ENVIRONMENTAL LEVY ON PLASTIC BAGS (SCOTLAND) BILL**

We are replying to your letter of the 29th April seeking views on the scope for our Members to diversify into other areas if affected by the proposed levy, our reply reflects the views of PIFA and the Carrier Bag Consortium.

As you know over the last eighteen months we have worked closely with the Scottish Executive regarding the proposed Bill by Mike Pringle to introduce a Levy on plastic bags and we have provided evidence to the Environment and Rural Affairs Committee, which is supported by independent analysis commissioned by the Executive, which has shown all the objectives of the Bill will fail and indeed the environmental consequences of such a Levy would result in at least a further 13,700 tonnes of additional waste generated i.e. an environmental disaster.

The Regulatory Impact Assessment estimates that up to 400 jobs in Scotland could be directly affected by the Levy, we believe this underestimates the number of potential job losses, which could reach 700 when companies relocate what remains of their businesses away from Scotland in order to be closer to their remaining market.

Whilst not a direct concern of the Scottish Executive our Members estimate that there could be further job losses of 1500 employees in England and Wales where businesses are supplying into Scotland, it is clear from the responses we have had from our Members, both Manufacturers and Distributors, that their businesses will be devastated should this Levy be imposed with many of them with little option but to close down. Here is a summary of some of the comments I have received recently:
Company 1

"Should the polythene ban be enforced, 75% of our business is directly related to polythene - we cannot under-estimate the disastrous effect on our business."

Company 2

"We only employ 25 people but we are supported by ink and solvent manufacturers, plate makers, packaging companies and transport people - all of whom confess to finding life difficult at the moment - how many of these companies could survive? - I don't know"

Company 3

"The proposed Levy would have a drastic affect on our business, 90% of our trade is in polythene carrier bags - the alternatives are largely unaffordable by our customers - if the Levy was imposed it would almost certainly put us out of business"

Company 4

"The impact of a Levy would result in the factory closing down, we cannot afford investment in machinery to diversify"

Company 5

"Since our business started we have never sought or required any financial assistance in terms of overdraft facilities or bank loans and we are certainly not going to start now, which is exactly what we would do if this Bill proceeds, thereby lies our decision to close our business should the Bill become law"

Company 6

"If the Levy on the carrier bag has the same effect as in Ireland i.e. a 90% reduction in demand for product, then we will simply have to close down with the loss of 110 full-time jobs with the knock-on effect of a further 400 associated jobs. It would need a major investment beyond our resources to diversify into alternative products"

Diversification Issues

Those businesses manufacturing carrier bags have invested in specific equipment that is bespoke to make this style of product. In many cases the total manufacturing line investment has been £1-2 million and it is simply not practical to convert most of these into making alternative products and those that could be converted would then enter manufacturing products for markets which are already over supplied with the consequential failure to gain a sustainable return.

The elimination of the thin bags would also remove a sizeable opportunity for high quality waste material used in recycling and this in turn could have some effect on the level of investment in recycling plastics where Scotland currently has significant facilities.

In ANNEX D: PLASTICS COMPANIES IN SCOTLAND THAT COULD BE AFFECTED BY THE LEVY in the RIA report, section 8 suggests that merchants may have greater opportunities should there be an increase in demand of paper bags. This completely fails to understand the implications for paper substituting plastic bags i.e. apart from the environmental disaster of the extra 13,500 tonnes of waste it is highly likely that many users of the plastic carrier bags simply could not afford the extra cost of paper as highlighted by one
of the manufacturer's comments above. This is brought into focus when you consider that plastic bag production uses one-third of the energy, results in half the pollution and requires one-eighth the raw material needed by equivalent paper bag production, therefore making it totally cost uncompetitive for many markets.

Many distributors have invested heavily in automated warehouse systems specifically designed to contain the volumes necessary to supply their markets of plastic bags, should paper bags or bags for life replace these this would require significant enlargement of warehousing space and coupled with the additional cash-flow required for the higher value products many could not raise the cash and continue with a viable business. As a specific example one of the Scottish companies has this month, supplied eleven 40 ft containers from Asia, which in total contain 715,000 material type bags for life for a UK retailer, who also uses lightweight plastic bags. 715,000 lightweight plastic bags take up less than 25% of ONE 40 ft container - a bulk factor multiplier of 44! Not only does this illustrate the additional cost and energy to transport these bags from Asia it also is indicative of the additional storage space required.

The same supplier of bags in Scotland has at present in one of its Scottish locations, warehouse space of 22,500 square feet, which adequately services his current Scottish customers as it holds some 1800 - 1900 pallet spaces on racking 5 pallets high. The maximum capacity it can hold for lightweight plastic carriers is somewhere in the region of 160 million bags. The same number of pallet spaces will hold a maximum of 4.32 million paper carrier bags or 2.7 million of the bags for life type carrier bags. To be able to store ONLY 50% of the requirement of the suggested alternative products to those they currently supply, will require a warehouse of 500,000 square feet storing pallets 5 high. This would require further additional investment in pallet trucks and delivery vehicles - 22 times more than they currently have.

In addition to the Capital Investment required for storage and distribution, the cash flow implications of supplying alternative products would be crippling.

Lightweight plastic carriers average cost is £8 per 1000. Paper carrier bags cost on average £70 per 1000. Bags for life in material as above cost £350 per 1000. If the change in products suggested by the Report are accurate, then the cash flow requirements will increase by a minimum, six fold and more likely to be a least 10 fold if the Irish move to paper carriers is indicative. Using the above example, stock of 160 million lightweight carriers requires £1,280,000 finance. 160 million paper carriers requires £11,200,000 finance and 160 million bags for life type carriers requires £56,000,000 financing. The reduction in usage by changes in buying patterns suggested will affect these costs but not significantly enough to allow financing to be attained. Distributors will be simply unable to cope with the cash flow requirements and their Banks will be unable to support levels of borrowings to them inconsistent with the capital employed within the industry. The risk involved is simply unacceptable.

Many distributors are privately or family owned and therefore have invested in their businesses within their financial limits, should they be faced with huge alternative investments simply to stay in business many will decide to place their investments elsewhere.

It is highly unlikely that distributors or manufacturers will be able to reinvest into paper carrier bag manufacturing as the capital investment is simply too high with the printing equipment costing over £1 million per line and the paper conversion bag making equipment a further £2 million, a number of different lines would be required to make the different types of paper carrier bags.

Also additional to the finished stock requirement mentioned above, the reels of paper required to feed such conversion equipment would require further additional substantial storage space with the required paper being imported large distances from Scandinavia, Europe and Asia. The recent demise of the last remaining kraft paper mill in Scotland making bag papers, will
also sadly mean that the 100,000 tonnes claimed to be recycled annually within that operation, will now become an additional part of the Scottish waste stream. No longer can the bag making industry in Scotland rely upon locally manufactured paper.

In essence, the alternative products i.e. paper, cotton, hessian, polypropylene, thick plastics, will continue to come from Asia due to the competitive nature of this sector of the industry and therefore it is highly unlikely that any alternative manufacturing industry will grow up in Scotland or indeed in the UK.

In summary, both manufacturers and distributors will largely be put out of business if this Bill is passed and as can be seen from the factors mentioned above the devastation of their future will apply equally to distributors as well as manufacturers. In passing this Bill the Scottish Parliament will have destroyed the bulk of the capital value of the businesses, as they will not be able to obtain investment when they cannot continue to obtain the present sales, growth and profitability levels.

Losses of jobs in Scotland will result in businesses having to claim from the Government, compensation for redundancies and possibly further compensation for the disruption of their businesses. Many of these companies have grown through successive generations of families and are supported by other Scottish businesses that rely on their custom and all this will be for a no net Environmental gain, i.e. completely against the criteria the Environment Minister has set for the success of the Bill.

Should you need any other clarification on the above observations, please let me know.

Yours sincerely

David Tyson
Chief Executive
31 July 2006

Simon Stockwell
Waste and Pollution Reduction Division
1-J-North Victoria Quay
Edinburgh
EH6 6QQ

Dear Simon,

Ref: An Environmental Levy on Plastic Bags (Scotland) Bill

I write in response to your request dated 20 April 2006 for information on the impact of the above proposed environmental levy on plastic bags on British Polythene Industries PLC.

We do not intend to re-state our many and considerable objections to the proposed bill which we have cited previously on grounds of environmental damage, increased waste levels and greater administrative and cost burden to all sections of the industrial, commercial and local authority community as well as to members of the general public. We believe these have also been well stated by other varied and independent sources and we confine our statements below to the specific impact of the proposed levy on our own business and on our industry as a whole.

If we assume that the levy would result in the reductions in plastic bag usage in Scotland as indicated by the AEA Technology Environment Extended Impact Assessment the implications for our business would be as follows:

Firstly, we are a manufacturer of polythene film and bags and it is not possible for us to diversify into manufacture using other raw materials as this would require considerable investment in new and significantly different machinery.

Secondly, as we made clear in our original response to the proposed bill we do not manufacture significant volumes of carrier bags in our business. Having said that, we have a small site in Cowdenbeath in Fife where some 35% of its production is devoted to carrier bag
manufacture. If it were to lose this volume following the introduction of a levy the site would no longer be viable.

BPI has carried out a process over the last few years of closing most of its smaller sites and those that have survived have done so because they are specialist manufacturers involved in niche areas of production. The loss of the carrier bag business from our Cowdenbeath site would mean we could no longer justify manufacturing the remaining tonnage on such a small site as it would no longer be viable. The inevitable consequence would be that we would be forced to close the site with the loss of around 45 jobs.

Thirdly, the opportunities to diversify from carrier bag manufacture to alternative products are limited. The equipment which produces carrier bags is very specialised and dedicated to the specific manufacture of short, narrow bottom-weld bags with a punched cut-out to produce the handles. This equipment cannot be altered to allow for the manufacture of other products with any sensible level of efficiency. As a result any machines currently used in the manufacture of carrier bags will become redundant and the opportunities for any business involved to any great extent in the manufacture of carrier bags to use that equipment to diversify would be very limited. Any companies wishing to diversify would need to re-invest in new conversion equipment, the cost of which would be substantial.

Fourthly, if companies affected in this way were to consider substantial re-investment to allow their business to continue to manufacture alternative forms of plastic flexible packaging they would find a market already in a situation of considerable over-capacity. Since the late 1990s the proportion of plastic flexible packaging imported into the UK has grown substantially and as such the UK market has become extremely competitive. A further consequence of the proposed levy, were some suppliers of carrier bags to the Scottish market able to re-invest and diversify, would be to depress an already over-supplied market for products like bin-liners and general purpose packaging. A number of our businesses manufacture these products and certainly any of those operating from smaller sites would be at risk were their markets to become further depressed. These would include our sites in Greenock in Scotland (employing 120 people), Flint in Wales (employing 41 people) and Swansea in Wales (employing 67 people). It remains a significant concern that the introduction of the proposed levy could result in some of the major Far East suppliers of carrier bags re-investing in other areas of plastic packaging manufacture such as bin-liners and that this could have a seriously destabilising affect on those markets and a subsequent impact on recycling activities in the UK.

Fifthly, our plant at Dumfries recycles carrier bags from all over the UK. This provides an important feedstock for our wood substitute Plaswood product. The current market for scrap in the UK is extremely tight as the UK, since the advent of the PRN system, now exports nearly 60% of its packaging waste. We would find it very difficult to replace the volume of carrier bags we currently recycle with another scrap source were the proposed bill to cut considerably the volume of used carrier bags available for recycling. Whilst the volume we recycle is relatively small it is both important to our process and has great PR value in terms of the way in which it allows us and our retail customers to show their consumers what can be done by recycling carrier bags specifically and plastics in general. A number of the major retailers all now offer front-of-store carrier bag collection points and we see the opportunity to recycle substantially greater volumes of carrier bags in the near future. The proponents of this Bill claim as one of its supposed benefits that it will raise the profile of recycling and other environmental issues. In fact the proposed levy would put an end to these very worthwhile and very visible recycling projects which are already doing a great deal to raise public awareness of plastic recycling.

Lastly, our Group Head Office is currently based in Greenock and employees 13 people directly and employs the services of a large number of local Scottish support services, including, legal, pension, insurance, audit, banking and accounting. Greenock also hosts our
Group Payroll employing 5 people and we are in the process of setting up a Shared Service Centre which will employ up to 50 people. We are a Scottish Head Quartered Group who have developed an international business from Scotland and are regarded as Europe's leading polythene film producer. Our business naturally gravitates towards England where we have our main markets, our largest plants and employ nearly 2000 people. Of our five businesses, four are based in England and one in Belgium. We will, therefore, find it extremely difficult to maintain our Head Office in a country which is prepared to introduce such poorly conceived anti plastic legislation and we would consider moving our Head Office south to one of our sites in England with the potential loss of nearly 70 jobs plus associated supporting service jobs. As a Scottish Head Quartered business, we have invested heavily in our Scottish plants at Greenock and Ardeer to safeguard their future by introducing new products and equipment despite our other UK plants being closer to our UK markets. The continuing employment at these plants is nearly 275 and their current marginal position would be looked at differently by a non Scottish Headquartered Group.

In summary, there would be immediate job losses of 45, a high risk of Scotland losing one of it's few remaining international manufacturing groups and an immediate/medium term risk of a loss of a further 345 jobs.

The proposed Bill would have a substantially detrimental effect both on our business and on our industry as a whole. In addition, as we have argued previously, it would have a substantially negative effect on waste levels in Scotland, on the amount of biodegradable municipal waste going to landfill and on the cost and practical burden it places on other businesses, on local authorities and on members of the general public. We strongly oppose it on business grounds, on environmental grounds and on grounds of simple common sense. Where similar legislation has been implemented elsewhere, as in Ireland or Australia, it is now becoming clear that such legislation, whilst appearing to be successful on the surface by reducing the amount of plastic carrier bags in circulation, has sufficient unintended or reactionary consequences as to render the supposed benefits futile.

As we stated previously, if the Scottish Parliament wishes to promote awareness of recycling and the environment it should support, and not penalise, those within industry and the retail sector who are spending millions of pounds annually in developing more environmentally- responsible packaging systems and more collection and recycling initiatives as well as diverting thousands of tonnes every year of plastics which would otherwise go to landfill. The proposed Bill would be a significant step backwards.

Yours sincerely

John Langlands
Chief Executive
ANNEX C Cont’d.

DIVERSIFICATION WITHIN THE PLASTICS INDUSTRY

CORRESPONDENCE FROM SCOTTISH ENTERPRISE

2 August 2006

Mr Simon Stockwell
Waste and Pollution Reduction Division
The Scottish Executive
1-3 North Victoria Quay
EDINBURGH
EH6 9DQ

Dear Mr Stockwell

I understand that John Langlands, chief executive of British Polythene Industries (BPI) has written to you concerning the “Environmental Levy on Plastic Bags (Scotland) Bill”.

I cannot comment on the pros and cons of the environmental argument. However, I would simply like to point out that BPI is an exceptionally successful Scottish public company and one of the very few Scottish companies to have acquired real scale in a global market. They are extremely valuable to the Scottish economy both in terms of employment and investment but also as an example to other aspiring Scottish businesses.

I believe that the predicted consequences of such proposed legislation as detailed by Mr Langlands are quite real and need to be taken very seriously in any consideration of the impact of the bill on the Scottish economy. I would therefore urge you to take this into account.

Yours sincerely

Jack Perry
ANNEX D

VOLUNTARY CODE OF PRACTICE – DRAFT DEVELOPED BY SCOTTISH EXECUTIVE, DEFRA AND WELSH ASSEMBLY GOVERNMENT

N.B. This Code is not yet finalised and therefore subject to minor change.

CODE OF PRACTICE ON HANDING OUT PLASTIC AND PAPER BAGS TO CONSUMERS

Aims:

- To reduce the number of plastic and paper carrier bags handed out at points of sale. The aim is to achieve a reduction of 25% by the end of the first year, rising to 50% by the end of the third year, when compared with the baseline of ZZZZZ [this target is broadly in line with the Australian target and also that of Tesco];
- To increase reuse of bags;
- To increase the number of bags that are recycled. The Code would require retailers with floor space measuring over 280m² to have recycling points for plastic bags [it was felt that sufficient paper recycling opportunities are already available];
- To optimise the recycled content in those bags which are made available to consumers;
- To provide best available information to retailers and the public on bag use and reuse best practice.

Initiatives:

- Customers will be asked if they have brought their own bags/if they require a bag, rather than bags being handed out automatically. In order to achieve this, adequate training for staff will be required. Staff should also be aware of the background messages and reasons behind the Code;
- Retailers will promote stronger, reusable carrier bags. These could be sold at a reasonable price, but retailers would commit to replacing the bag free of charge at the end of its useful life;
- Where design of till lines permit, retailers will take steps to ensure that bags are not available automatically to consumers. In the longer term, retailers will consider the design of points of sale, so that carrier bags are not automatically and readily available to consumers;
- Where practicable, retailers will provide clearly labelled facilities in outlets, branded with Waste Aware Scotland logos or other logos relevant in different parts of the United Kingdom, where any bag, regardless of branding, can be recycled;
- If it is not practical to provide recycling facilities on-site, information should be available to advise customers of the nearest recycling facilities;
- Retailers will aim to provide carrier bags with recycled content;
• Reduction in carrier bag use must be achieved without a significant shift to other types of bags (other than bags designed for re-use), or through additional packaging;
• Retailers will encourage manufacturers to include handles on larger packs or products, to preclude the need for a carrier bag;
• Retailers would be encouraged to review, on a regular basis, their policies on whether or not to charge consumers for bags;
• Retailers would be encouraged to minimise the number of bags used when delivering internet orders and reclaim the bags from previous deliveries;
• Retailers would be encouraged to link bag reuse with any existing loyalty schemes, in order to provide a useful incentive to consumers;
• Where paper bags are used, retailers should ensure they are designed and made in such a way that they are easy to recycle.

Monitoring of Code:

• Retailers to provide baseline information for year ZZZZ, based on existing stock control systems, to DEFRA;
• Compliance with the Code to be monitored for the first three years by DEFRA, via annual returns, submitted by the retailers;
• The Code would be reviewed after three years;
• A distinction would be made between large and small retailers: distinction made by number of branches. Larger retailers, with 10 or more branches in the UK would be asked for quantitative information on their returns.
• Smaller retailers, with fewer than 10 branches in the UK, would be encouraged to sign up to the Code. Trade associations would be asked to complete an annual return on behalf of their members.

August 2006
ANNEX E
SEPA REPORT ON AEA TECHNOLOGY RESEARCH STUDY

Scottish Environment Protection Agency

Environmental Levy on Plastic Bags (Scotland) Bill –
Assessment of the Evidence on the Environmental Impacts of
Plastic Bags and Their Alternatives

Executive Summary
1. **Introduction**

1.2. The Scottish Executive requested SEPA undertake an assessment of the environmental impacts of the Environmental Levy on Plastic Bags (Scotland) Bill (the Bill) to inform their submission to the final session of the Environment and Rural Development Committees (the Committee) hearings on the Bill.

1.3. The Committee were unable to provide a recommendation on the Bill after the hearings were completed, and requested clarification on a number of points before giving a recommendation.

1.4. Specifically SEPA were asked to:

- Consider the environmental findings of the AEA Technology report.
- Consider the written and oral evidence provided by the Parliamentary Committee.
- Consider any other evidence or information SEPA is aware of.
- Advise on whether there are any technical areas in relation to the environmental impact of the levy where SEPA would disagree with the AEAT study conclusions.
- Advise on whether any such disagreements are minor or relate to fundamental issues.

1.5. In addition SEPA were also asked to look at the potential impacts of biodegradable bags and any evidence of the environmental impacts of the various types of biodegradable bags available.

1.6. **Conclusions from the evidence**

(a) **On the aims of the Bill**

- As an anti litter measure the Irish Tax has been a success.
- It is less clear if the Tax raised public awareness of waste issues. If it did it was as one of a number of legislative measures with a common theme.
- There is a concern over the effects of plastic bag litter on wildlife. However until the extent of any plastic bag litter problem in Scotland is established it is uncertain what effect the Levy would have.
- There is no evidence that the Levy would have any significant impact on the quantity of plastic going to landfill.

(b) **In terms of the wider environmental impacts and sustainable development issues:**

- The AEAT report, given the constraints under which it was produced, is consistent with other studies carried out around the world in concluding that plastic disposable bags have less potential environmental impacts than paper bags.
• Issues such as the comparability of plastic and paper bags on functionality, or the recycling rate of paper bags, could affect the detailed results. But there is no evidence that they affect the overall outcomes.

• The percentage of paper recycled does not affect the overall results.

• There is likely to be a switch to paper bags, particularly in fashion and shoe retailers. The extent of this switch is unknown, but is not likely to be large.

• The use of biodegradable bags overall is not better on environmental grounds than plastic bags, and sends out a contradictory message to the waste prevention message the Bill aims to get across.

(c) There is a clear lack of evidence specific to the Scottish situation.

2. Final Conclusions and Recommendations:

2.1. In terms of the aims of the Bill;

(i) The Levy could have significant benefits as an anti litter measure, but at the present time there is a lack of evidence on whether or not there is a real problem with plastic bag litter in Scotland, or just the perception of a problem.

(ii) The Irish experience would suggest that it would have little effect on the disposal of plastic to landfill.

(iii) A Levy could be a significant factor in raising public awareness of environmental issues, as part of a range of waste prevention measures. But there is no direct evidence to support this.

2.2. In terms of the wider environmental effects of the Levy and sustainable development;

(i) The AEAT report does provide a reasonable picture of the relative environmental impacts of the different types of shopping bags looked at.

(ii) Any environmental benefits from the Levy would at best be modest.

(iii) The Levy should be applied to all one trip disposable shopping bags.

(iv) The industries in Scotland should be given transitional time to diversify into other areas of production, for example bags for life.
Scottish Environment Protection Agency

Environmental Levy on Plastic Bags (Scotland) Bill – Assessment of the Evidence on the Environmental Impacts of Plastic Bags and Their Alternatives
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Appendix 1. The Scottish Environment Protection Agency Written Submission To The Environment And Rural Development Committee Hearings On The Plastic Bag Levy (Scotland) Bill

Appendix 2. Summary Of International Measures Taken To Reduce The Use Of One-Trip Plastic Bags

References
1. Introduction

1.1. This paper has been prepared at the request of the Scottish Executive in order to inform their submission on the Environmental Levy on Plastic Bags (Scotland) Bill (the Bill) to the Environment and Rural Development Committee (the Committee). Specifically SEPA were requested to:

- Consider the environmental findings of the AEAT Technology\(^1\) report.
- Consider the written and oral evidence provided by the Parliamentary Committee\(^2\).
- Consider any other evidence or information SEPA is aware of.
- Advise on whether there are any technical areas in relation to the environmental impact of the levy where SEPA would disagree with the AEAT study conclusions.
- Advise on whether any such disagreements are minor or relate to fundamental issues.

1.2. In addition at a meeting with the Executive SEPA were also asked to look at the potential impacts of biodegradable bags and any evidence of the environmental impacts of the various types of biodegradable bags available.

1.3. The whole area of the environmental effects of disposable plastic bags has become highly emotive, with many opinions being put forward which are based on a perception of the issue rather than hard evidence. This report aims to look at the evidence available and take an objective approach to considering the questions SEPA have been asked to look at. There are a range of issues surrounding the Bill such as the social impacts, impacts on consumers and impacts on businesses. This report is in the main restricted to considering environmental issues.

2. Background

2.1. The Environmental Levy on Plastic Bags (Scotland) Bill was introduced into the Scottish Parliament by Mike Pringle MSP as a Member’s Bill in June 2005.

2.2. The Environment and Rural Development Committee is the lead committee for Stage 1 scrutiny of the Bill. In June 2005, the Committee issued a call for evidence from interested parties on the general principles of the Environmental Levy on Plastic Bags (Scotland) Bill as introduced, and later in 2005 the Committee took oral evidence from a range of interested parties.

2.3. What was made clear by the evidence provided to the committee was that an issue which on the surface looks simple, does in fact have a complex range of interactions which made producing a final recommendation very difficult. The committee report was therefore published with no final recommendations.

2.4. The Committee has requested that the Minister for Environment and Rural Development report to it on his plans to address the use of plastic bags in the waste minimisation strategy. Preventing Household Waste In Scotland – A Consultation Paper\(^3\) on this subject was published by the Scottish Executive earlier this year with a view to ascertaining how Scotland should go about
reducing the quantity of municipal solid waste (MSW) produced every year. It is currently estimated that MSW is growing at 2% per annum, the National Waste Plan commits Scotland to reducing this growth to 0% by 2010. The ultimate aim is to draw up a Household Waste Prevention Action Plan for Scotland.

2.5. The consultation covered product designers, manufacturers, retailers, consumers, communities and local authorities, and sought to find out where action should be targeted to be most effective. Including disposable bags within the Household Waste Prevention Action Plan has been proposed as more effective overall solution to the problems of non-renewable resource use than the proposed legislation.

2.6. Further the Committee have asked that Mike Pringle considers the points made in the Committee report, in particular the lack of robust evidence about the net environmental impact of the Bill and the likely administrative costs for retailers and local authorities. This evidence has to be with the committee by 31 August 2006 and on receipt of these reports the Committee will then make its final recommendation to the Parliament on the general principles of the Bill. This paper will constitute part of the evidence submitted by the Minister.

2.7. Proponents of the Bill argue that it could reduce the use of disposable plastic bags by over 90%. This would help to reduce plastic bag litter and waste going to landfill and save precious non-renewable resources currently used to manufacture the bags. They also feel that the AEAT study overstates the environmental burdens from paper bag manufacturing and use which are in reality no worse or even better than the burdens from plastic bag manufacturing and use.

2.8. The opponents believe that plastic bags have been unfairly singled out, that the Bill ignores the evidence that suggests plastic bags do not have the environmental impacts often associated with them, on the contrary they are in many ways a better environmental option than the alternatives.

3. The Aims of the Bill

3.1. The stated aims of the Bill are “to reduce the number of plastic bags in the waste stream as litter or in landfill sites. It also aims to raise a general awareness of the environmental issues of reduce, recycling and reusing waste”.


4.1. The Scottish Executive did not take a view on the Bill when it was introduced because any decision would have to be based on "sound evidence" of an environmental benefit. To this end the Executive commissioned a study from AEA Technology Environment (AEAT) in order to investigate and assess the range of environmental, business and consumer impacts related to the proposal to introduce a plastic bag levy in Scotland. In doing so, other potential options or variants on the proposed levy were also researched.
4.2. Since its publication the report seems to have raised as many questions as answers and has been subject to some criticism, particularly from the paper industry. The main thrust of the criticism concerns the incorrect use of the life cycle study carried out in France for the Carrefour Group, the accuracy of the Carrefour study and faulty assumptions.

5. The Report

5.1. The report will go through each of the main areas of contention in turn. These are:
   (i) Litter
   (ii) Harm to Wildlife
   (iii) The Irish Experience Life Cycle Assessment (LCA)
   (iv) Non-Renewable Resource Use
   (v) The Possible Switch to Paper Bags
   (vi) Biodegradable Bags

5.2. The conclusion will then draw the various threads together in order to provide overall conclusions and recommendations.

6. Litter

6.1. One of the aims of the Bill is to reduce litter from plastic bags, as was the case in Ireland. Litter it must be remembered is a form of pollution and can be a significant problem in some areas of Scotland.

6.2. The Irish experience, dealt with in more detail in Section 7, has demonstrated that a Tax, or Levy, can have a significant impact on the levels of plastic bag litter. The problem in Scotland is establishing there is a significant problem in the first place.

6.3. In their written supporting submission to their oral evidence Keep Scotland Beautiful stated "there is no specific measurement of levels of plastic bag litter in the LEAMS' report as plastic bags have not been found to be a significant source of street litter". However LEAMS is only designed to monitor litter found on the streets or pavements.

6.4. Keep Scotland Beautiful did acknowledge this in their evidence. LEAMS fulfils a statutory function which only relates to streets and pavements. By their very nature, very thin and lightweight, plastic bags tend to be picked up by the wind ending up in trees and bushes.

6.5. The primary problem with plastic bags is their persistence in the environment. A single bag caught in a tree may stay there for a considerable period of time. This can give rise to the perception that there is a wider problem, but at the present time there is no quantitative evidence to say if this is the case or not.

6.6. This is illustrated by a letter to the UK Bag Manufacturers Association from Smith Anderson Packaging. The letter argued that a figure of less than 1% for plastic bags in litter is inaccurate, depending on the situation. They

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<sup>1</sup> LEAMS - the Local Environmental Audit and Management survey
argued it may be true in cities where there is a greater proportion of other litter types. But elsewhere, and in particular in the country they state:

6.7. “it is palpably misleading because in these scenarios plastic bags are visually the major culprit”

6.8. Again this may well be the perception of a problem a much as a problem in itself. Plastic bags may be the visual manifestation of litter problems. But a motorist would notice plastic bags in trees or bushes but may not see the ditch full of other plastics, glass or other litter. It should also be asked how much of the plastic seen in the country is actually from plastic bags? Agricultural plastic may well be as much, if not more, of a problem in some areas.

6.9. The AEAT\(^1\) report and the Keep Scotland Beautiful\(^5\) submission included evidence from the Industry Council for Packaging and the Environment (INCPEN), a plastics industry lobbying group, which found in a survey carried out in England that plastic bags accounted for 0.064% of items of litter. The problem with such surveys is that they tend to count every item of litter equally. So a single cigarette end is accredited with the same littering potential as a plastic bag.

6.10. The highest recorded levels of plastic bag litter recorded are found on beaches. The Annual Beachwatch Report\(^6\) in 2005 found plastic bags accounted for 2.3% of beach litter. 35.4% of beach litter was attributed to litter left by beach visitors.

7. **Harm to Wildlife**

7.1. A particular concern of a number of the organisations giving evidence to the Committee was the effect of plastic bag litter on wildlife.

7.2. According to the SSPCA\(^7\) a number of calls are received every year relating to animals suffering due to plastic bags. While the numbers quoted are not large, 9 in 2004 and 12 in 2005, they felt this was just the tip of the iceberg and greater numbers of wildlife are killed or injured every year.

7.3. In the marine environment the effects seem to be even greater. Plastic bags are mistaken for food and consumed by a range of marine animals. Ingestion of such material can eventually lead to death.

7.4. The Marine Conservation Society\(^8\) presented evidence to the committee on the scale of the problem of plastic bags found in the marine environment. This is clearly a problem which should be of concern. However addressing this issue needs international action to be effective. This is not to argue that action by individual countries such as Ireland and Scotland will not be effective, it may in fact help to provide the impetus needed for wider concerted international action.

7.5. The question in isolation however has to be what effect a Scottish Levy on plastic bags would have on this problem given that plastics as a whole can present a serious problem for wildlife.

8. **The Irish Experience**

8.1. In 2002 the Irish Government introduced a 0.15€ tax on disposable plastic bags, the so called PlasTax. The tax was introduced primarily as an anti litter
measure and has resulted in a reduction in bag use of over 90% and has widely been hailed as a model for other countries to use.

8.2. Various claims have been made about the success, and the lack of it, of the tax, but only two can be substantiated. It has certainly reduced the level of plastic bag use, by over 95%. In addition it has had a significant impact on the litter problem in Ireland, reducing the level of litter from plastic bags from 5% of total litter to 0.25% in 2005.

8.3. This seems to be the only quantitative evidence so far available to support the claims made for the Irish Tax. The Irish Department of Environment, Heritage and Local Government did commit to undertaking a full assessment of the effects of the levy in 2005. However this has yet to be started and is unlikely to commence before the end of 2006.

8.4. It is interesting to note that in their evidence to the Committee 10 the Department of Environment, Heritage and Local Government stuck very closely to the line that this was an anti-litter measure and was a success in these terms. No wider claims were made.

8.5. As an anti-landfill measure, which was not a primary aim of the tax, there is little evidence to say what effect the levy has had. Although the Department of Environment, Heritage and Local Government believe that it has had a neutral effect.

8.6. There is a great deal of anecdotal evidence with regards to other effects of the tax. In Kraft News 11, the newsletter of UPM it states:

“Packaging Papers Welton Bibby & Baron and other manufacturers of paper bags have understandably benefited from the fall in consumption of plastic bags in Ireland”.

8.7. The article goes on to quote Nick Tomkins, Sales and Marketing Director at Welton Bibby & Baron, one of England’s leading makers of paper bags:

“many shops have switched over to paper bags, because they don’t want to charge their customer for bags”.

8.8. That some retailers have switched to paper bags is therefore fairly certain, but there is no evidence on the scale of the switch.

8.9. The plastics industry claim that the reduction in plastic shopping bag use has been offset by an increase in the purchase of bin liners and waste sacks. They have quoted statistics on the import of plastics into Ireland which have shown little reduction and may have even risen since the tax was introduced. Certainly ASDA 12 in their written submission to the Committee quote a 300% increase in the sales of black bin liners.

8.10. Without good data on the actual quantities of bin liners and waste sacks being purchased it is impossible to know to what extent it offsets the reduction in plastic bag use. Both types of bag, however, tend to be larger and thicker than disposable plastic bags so fewer bin bags and waste sacks would be required to use the equivalent amount of resources as saved by the reduction in plastic bag use.

8.11. The UK plastic film industry have claimed that export statistics show that, while the tax has reduced massively the number of plastic bags used, the
quantity of plastic being exported has in fact risen. The problem is that Irish import statistics do not support this. The difference is probably due to different reporting mechanisms, but it still leaves the basic question unanswered.

8.12. There is also anecdotal evidence that the levy has resulted in a switch to more pre-packaged fruit and vegetables. Again there is as yet no hard evidence to either support or refute these claims.

8.13. Further research on this issue would be useful. However it would not now be possible to commission and undertake the required work in a timescale that would enable it to inform the Committee's considerations.

8.14. It has also been claimed that the tax has raised public awareness of the environmental issues surrounding the use of disposable plastic bags. Again this is uncertain. In evidence to the Committee John Curran, Group Environmental Executive of the retail company Musgrove plc stated that:

"we are aware of a much greater consciousness among the public now days of waste management, the need to recycle and the need to cut down on the amount of waste we generate".

8.15. When asked if this was due to the tax he said:

"a common theme runs through much of the legislation”.

8.16. He also noted that waste legislation is much stricter in Ireland and waste costs were much higher.

8.17. The Irish Tax has clearly been a successful anti litter measure, but until a full assessment of the Tax has been undertaken any further claims from the success of the Tax, or lack of it, should be treated with great caution.

8.18. Ireland is not the only country to introduced measures to reduce the use of on-crop plastic bags. A summary of measures taken in other countries and the effectiveness, where known, is included as Appendix 2.

9. Life Cycle Assessment (LCA)

9.1. Obviously there are great differences in all stages of the production and use of plastic and paper bags. So it is difficult to make a meaningful comparison of the environmental burdens of each product.

9.2. To undertake such a comparison the most widely used technique is life cycle assessment (LCA). LCA looks at the whole life cycle of a product or service, from the extraction of the raw materials to final disposal. By compiling an inventory of all the inputs and outputs from products’ lifecycles meaningful comparisons can be made.

9.3. However while LCA is a powerful tool it should be treated with care. It is in reality a snapshot of the products at a particular time and place. Using the results outwith the context in which they are developed is fraught with difficulties.

9.4. The AEAT used a study undertaken for the Carrefour Group, “Évaluation des impacts environnementaux des sacs de caisse Carrefour”14, a lifecycle study which was carried out Carrefour’s internal purposes and not application elsewhere, and has, as a result, attracted some criticism.
9.5. The written evidence presented by the Paper Packaging Co-Ordination Group\textsuperscript{15} in support of their oral evidence was particularly critical of the use of the Carrefour study. Their criticisms centred around the use of the Carrefour study where it is not applicable and that the findings of the study for paper bags were not applicable outside France. They also expressed concern that some of the data used, due to its age, did not reflect the current technology used by the paper industry.

9.6. Friends of the Earth\textsuperscript{16} expressed concern in their oral evidence that the AEAT Report assumed 100\% landfill of paper bags at a time when paper recycling is on the increase in Scotland. This they argue would have had a negative effect on the potential environmental burdens associated with paper bags.

9.7. It has to be noted that most of the concerns expressed regarding the AEAT report are acknowledged in the report itself, and that AEAT attempted to address them through its sensitivity analysis. However in order to try and clarify the situation the main points of the criticism are further addressed below.

(i) The use of the Carrefour Study.

(a) The AEAT Report was based on a study carried out for the French retail chain Carrefour. Carrefour commissioned the study in order to inform their own internal policies on the use of disposable shopping bags.

(b) It is a risk of any life cycle study that the results are used out of context. The Carrefour study would for example have used manufacturing data which is specific to France, or to other countries which supply them with bags. This data is not necessarily transposable to Scotland. It would also have been based on the shopping habits of the French. Again these do not necessarily apply to Scotland. Life cycle results are very specific to the context within which the study was carried out.

(c) However AEAT recognised this from the outset and the Carrefour study was used as it presented the study ‘most relevant to the situation in Scotland’. All of the studies available were considered. In the absence of any study specific to Scotland or the United Kingdom it is difficult to see what alternatives there were. Given the constraints under which the study was carried out, the cost and time required to undertake a full Scottish LCA meant this was not an option.

(d) It should also be acknowledged that the results they present are broadly consistent with other studies carried out around the world, see Appendix 1. So the results are reasonable in terms of the relative ranking of the environmental impacts of the various types of disposable bags. Any inaccuracies will be in the detail of the results.

(e) For example Table 1, reproduced from Appendix 3 of the AEAT Report, details the relative environmental performance of the various options considered. A number of the indicators here
could be significantly influenced by the differing mix of fuels used to generate electricity in France and Scotland. In France the proportion of nuclear powered generation is almost 80%, in Scotland it is close to 50%. Conventional thermal generation (coal, gas and oil) accounts for about 27% of generation in France, in Scotland it is closer to 54%.

(f) Conventional thermal generation, particularly coal, would have much higher impacts on global warming, consumption of non-renewable primary energy, air quality and solid waste production than nuclear power. So the problem with AEAT’s approach is that the data in tables such as this could be meaningless. However in this particular instance, as stated above, the results are in broad agreement with other studies carried out around the world in that plastic bags tend to show lower potential environmental impacts than paper or biodegradable bags. In these broad terms SEPA would consider them a reasonable relative comparison of each bag type.

(g) Indeed a further study, which was not used in SEPA’s Submission (Appendix 1), carried out in Australia by James and Grant as part of a project funded by the Department of Environment and Heritage, confirms the trend of previous studies. While aimed at comparing different types of biodegradable bags it includes Kraft paper bags and plastic bags.

<table>
<thead>
<tr>
<th>Indicator of Environmental Impact</th>
<th>Scenario</th>
<th>1A</th>
<th>1B</th>
<th>2A</th>
<th>2B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consumption of Non-renewable Primary Energy</td>
<td>-32%</td>
<td>-21%</td>
<td>-52%</td>
<td>-37%</td>
<td></td>
</tr>
<tr>
<td>Consumption of Water</td>
<td>16%</td>
<td>11%</td>
<td>-56%</td>
<td>-39%</td>
<td></td>
</tr>
<tr>
<td>Climate Change (Emission of Greenhouse Gases)</td>
<td>5%</td>
<td>4%</td>
<td>-55%</td>
<td>-39%</td>
<td></td>
</tr>
<tr>
<td>Acid Rain (Atmospheric Acidification)</td>
<td>-17%</td>
<td>-12%</td>
<td>-54%</td>
<td>-37%</td>
<td></td>
</tr>
<tr>
<td>Air Quality (Ground Level Ozone Formation)</td>
<td>-27%</td>
<td>-19%</td>
<td>-53%</td>
<td>-37%</td>
<td></td>
</tr>
<tr>
<td>Eutrophication of Water Bodies</td>
<td>124%</td>
<td>87%</td>
<td>-65%</td>
<td>-45%</td>
<td></td>
</tr>
<tr>
<td>Solid Waste Production</td>
<td>-4%</td>
<td>-3%</td>
<td>-55%</td>
<td>-38%</td>
<td></td>
</tr>
<tr>
<td>Risk of Litter</td>
<td>-47%</td>
<td>-33%</td>
<td>-50%</td>
<td>-35%</td>
<td></td>
</tr>
</tbody>
</table>

Scenarios:
1A - As in the proposed Bill
1B - As in the proposed Bill but excluding small-to-medium enterprises, charities and promotions
2A - As in the proposed Bill but with the levy applied to paper bags
2B - As 2A but excluding small-to-medium enterprises, charities and promotions

Table 1. Relative environmental indicators of levy scenarios
(h) The results are summarised in Table 2, where it can be seen that Kraft paper bags have higher potential impacts than disposable HDPE bags in all categories with the exception of those concerning litter.

(i) Two elements which came out of the AEAT report which seemed to be generally agreed by those giving evidence to the Committee. Firstly is that whatever the environmental benefits of the Bill are, they will be very modest at best. Secondly that the more a bag, of whatever material, is used, the lower its potential environmental impacts. So reusable bags should, on environmental grounds, always be the preferred option.

(j) It has to be recognised that at the present time there is no specific life cycle data directly applicable to plastic or paper bag manufacturing and use in Scotland or the UK. The only way to overcome this problem and to get such specific results would be to commission a new LCA study specifically looking at the Scotland or the United Kingdom situation. This has been done by the Environment Agency who have commissioned such a study of the UK, however this is not due to report until November 2006 at the earliest.

(ii) Are all the bags in the study fully comparable as regards functionality?

(a) AEAT themselves raised this issue in the report and carried out sensitivity analysis in order to ascertain the robustness of the results.

(b) Sensitivity analysis of this type would normally be carried out by recalculating the results with bags of a higher and lower weight to see what effect such variations had on the overall results.

<table>
<thead>
<tr>
<th>Material consumption</th>
<th>Greenhouse</th>
<th>Acidic</th>
<th>Ammoniacal</th>
<th>Litter</th>
<th>Marine</th>
<th>Litter</th>
<th>Aesthetic</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>kg CO2</td>
<td>kg Pb</td>
<td>kg Sb</td>
<td>kg PO₄</td>
<td>Biodiversity</td>
<td>Toxicity</td>
<td>m/ly</td>
</tr>
<tr>
<td>Starch-PBS A</td>
<td>3.12</td>
<td>2.5</td>
<td>0.00487</td>
<td>0.0073</td>
<td>4.26E-05</td>
<td>0.078</td>
<td></td>
</tr>
<tr>
<td>Starch-PBAT</td>
<td>3.12</td>
<td>2.88</td>
<td>0.023</td>
<td>0.00406</td>
<td>4.26E-05</td>
<td>0.078</td>
<td></td>
</tr>
<tr>
<td>Starch-polyester</td>
<td>4.21</td>
<td>4.96</td>
<td>0.0459</td>
<td>0.00194</td>
<td>5.78E-05</td>
<td>0.078</td>
<td></td>
</tr>
<tr>
<td>Starch: PE</td>
<td>3.12</td>
<td>4.74</td>
<td>0.0594</td>
<td>0.00258</td>
<td>0.0078</td>
<td>0.078</td>
<td></td>
</tr>
<tr>
<td>Oxo-biodegradable</td>
<td>3.12</td>
<td>6.34</td>
<td>0.101</td>
<td>0.00236</td>
<td>0.0039</td>
<td>0.078</td>
<td></td>
</tr>
<tr>
<td>PLA</td>
<td>4.21</td>
<td>16.7</td>
<td>0.0776</td>
<td>0.00911</td>
<td>5.78E-05</td>
<td>0.078</td>
<td></td>
</tr>
<tr>
<td>HDPE Singlet</td>
<td>3.12</td>
<td>8.13</td>
<td>0.102</td>
<td>0.00246</td>
<td>0.0078</td>
<td>0.312</td>
<td></td>
</tr>
<tr>
<td>Kraft Paper</td>
<td>22.152</td>
<td>30.2</td>
<td>0.585</td>
<td>0.0365</td>
<td>0.00302</td>
<td>0.078</td>
<td></td>
</tr>
<tr>
<td>PP Fibre “green bag”</td>
<td>0.209</td>
<td>1.95</td>
<td>0.023</td>
<td>0.00367</td>
<td>0.00344</td>
<td>0.00146</td>
<td></td>
</tr>
<tr>
<td>Woven EDPE “swag bag”</td>
<td>0.216</td>
<td>0.631</td>
<td>0.06934</td>
<td>0.00231</td>
<td>0.00107</td>
<td>0.00145</td>
<td></td>
</tr>
<tr>
<td>Calico</td>
<td>1.141</td>
<td>6.42</td>
<td>0.0177</td>
<td>0.00795</td>
<td>3.09E-06</td>
<td>0.00184</td>
<td></td>
</tr>
<tr>
<td>LDPE “bag for life”</td>
<td>1.04</td>
<td>2.76</td>
<td>0.0422</td>
<td>0.00114</td>
<td>0.00257</td>
<td>0.00145</td>
<td></td>
</tr>
</tbody>
</table>

(c) The only variation carried out by AEAT was to raise the weights as no data available to suggest that lighter bags were available. It
did however demonstrate that the results can be affected significantly by the weight of the bags.

(d) The weights of the bags assessed in the study are high compared to the figures supplied by Mike Pringle in his supplementary written evidence. Mike Pringle’s data was supplied by Smith Anderson packaging based on their bags. AEAT’s were supplied by the Carrier Bag Consortium as examples of typical paper bags currently used in Scotland. The most typical bags used in Scotland can only be ascertained by further independent research. However this particular issue may have been avoided in the first place had the paper industry been represented on the steering group for the AEAT report.

(e) There is some confusion as to the weights of paper bags used by AEAT which seems to stem from Table 2.1 of the report. This table quotes a figure of 124g for a handled paper bag and this figure was quoted in Mike Pringles supplementary written evidence. However The average weight of all paper bags in the AEAT report was 99g, and the weight of bags without handles was 51g. These are the values used in the life cycle assessment, not 124g.

(f) It should be noted however that the James and Grant study used a weight of 42.6g for a handled paper carrier, significantly lighter than the 124g bag and 68g which Mike Pringle quoted.

(g) The Paper Packaging Co-Ordination Group’s comments were based on an assessment of the Carrefour study which was attached to their submission. The assessment was produced by a research group closely linked to the paper industry in Scandinavia STFI-Packforsk AB. STFI-Packforsk AB’s main comments are on the comparability of the bags used in the study with regards to functionality. Specifically the characteristics of the disposable polyethylene bag.

(h) They argue that the functional unit is based on the volume of shopping and does not take into account weight. This therefore would disadvantaged paper bags which they argue are much stronger than plastic.

(i) The example used is milk. It is argued that the paper bags would ‘most probably’ be strong enough to carry 20 litres of milk, whereas they ‘doubt’ if the plastic bag could carry 14 litres. There is no evidence included to support these statements which seem to be based on the opinion of STFI-Packforsk AB rather than hard evidence. However according to the Plastic Bag Consortium a “plastic bag weighs about 7g, yet can carry up to 20kgs - more than 2500 times its own weight”. Clearly there are

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[Functional Unit] -- The basis of comparison between products or systems. For carrier bags the chosen functional unit was the bags required to hold 9000 litres of shopping. 9000 litres is an average annual volume of shopping.
conflicting views on the relative performance of plastic and paper bags by these two competing sectors.

(j) In addition any study such this not only has to take into account the characteristics of the bags, but also the behaviour of the shoppers who use them. It is unlikely that someone buying 20 litres of milk, weighing about 20kg or 44lbs would pack them in a single bag.

(k) STFI-Packforsk AB also argue that paper bags are more resistant to damage from sharp edged objects. This would be disputed by the manufacturers of plastic bags and again no evidence is quoted to support the statement.

(l) Their final argument on this subject is that bags vary from country to country. This is true and has to be taken into account. Unfortunately they have then used the comparison of Swedish plastic bags. Using information from Stenqvist, the largest supplier of plastic bags in Sweden, who do not sell bags of 16 μm, they state that the average bag has a thickness of 32μm and weighs 12.2g, as opposed to the 16μm, 6.04g bag used in the Carrefour study.

(m) If this were applied to the UK it would have a significant impact on the outcome of the study. But in the UK bags as thin as 9μm are used and have an average weight of 7g.

(iii) Comparison with other studies

(a) STFI-Packforsk AB use one other study to compare with the Carrefour study. This is work currently being completed by the European Paper Sack Research Group (ESG).

(b) They conclude that both reports have very similar results for the energy input required for the production of 23kg Kraft sack paper. 176MJ in the ESG study, 186MJ in the Carrefour study. However the Carrefour study assumes 0% renewable energy, ESG 24%.

(c) If energy is generated from a renewable source, such as wind power, its carbon, and other, emissions are highly likely to be significantly lower than those from non-renewable generation. This would undoubtedly have a negative effect on the paper bag results. The extent of this however cannot be fully ascertained with full access to all the data and rerunning the Carrefour study with the alternative data.

(d) But at the risk of repetition, the AEAT and Carrefour results are consistent with other studies in terms of the relative ranking of the environmental impacts of the various types of disposable bags.

(iv) Recycling Rates

(a) The assertion made by Friends of the Earth in their oral evidence that the report has assumed zero recycling is not correct. It is
clearly stated on page 39 of the report that they used a figure of 13.3% for assessing the impact of waste management. However the Carrefour study did assume zero recycling and this assumption was used in part of the analysis which may have caused the confusion.

(b) Even if the zero recycling assumption ran through the whole analysis the impact of it on the overall result is unlikely to be significant.

(c) At the time of writing the recycling rate in Scotland is about 22%. What the exact proportion of this is paper not certain as is the proportion of paper that is recycled paper bags. In addition, as was stated in the supplementary evidence provided by WRAP, recycling paper bags is not as simple as recycling newspaper. “The nature of the paper and the adhesives typically used means they would be better combined with cardboard recycling programmes”. While expanding cardboard recycling in Scotland is less well developed than paper recycling. As WRAP went on to explain paper bags might even be considered as contaminants by some of the paper mills to which they are sent.

(d) So it is unlikely that paper bags make up a significant proportion of the waste currently being recycled in Scotland.

(e) The situation will change in the future as cardboard recycling routes are further developed in Scotland. At the present time, while the 100% landfilled assumption is not an accurate assumption to make; it is unlikely to have made a significant difference to the overall outcome of the study.

(f) A further point to note is that the James and Grant study assumed a recycling rate for paper bags of 67%. The overall conclusion was still that plastic bags had lower potential environmental impacts than paper bags.

(v) The Age of the Data Used.

(a) AEAT acknowledged in their report that some of the data included in the Carrefour report dated from the 1990’s, and as such may not reflect the current situation. The Paper Industry certainly argues that they have invested heavily to reduce their environmental impacts, although no data to support this was made available to AEAT. It may also be a reasonable assumption that if the paper industry have reduced their impacts, then so have the plastics industry.

(b) The issue of the age of the data can be raised in relation to the other LCA studies undertaken around the world on this issue. More detail on these is provided in the written submission from SEPA submitted in support of its oral evidence, included as Appendix 1. The earliest of these, the Franklin Associates Study dates from 1990.
These reports do however provide the only quantitative evidence on the relative merits of disposable paper and plastic bags. In addition from the earliest to the most recent there has been a consistent trend in that plastic bags almost always have less potential environmental impacts than paper.

It must always be remembered that any lifecycle study is a snapshot in time, and with the speed of technological advance they can be out of date almost before they are published. It is possible then that the differences in environmental impacts between paper and plastic bags have narrowed. At the present time however there is no evidence presented to SEPA, or that SEPA has found, that would currently suggest paper bags are a better environmental option than plastic.

10. Non-Renewable Resource Use

10.1. While the issue of resource consumption is addressed by life cycle assessment there are aspects of it which are worth addressing separately.

10.2. The argument often aimed at plastic bags is that they are a waste of a valuable non-renewable resource, whereas paper is a renewable resource. According to the Carrier Bag Consortium\textsuperscript{16} “only about 2% of all the oil consumed in Europe is used for all plastic packaging – and plastic carriers are a very small part of this percentage”. However when the daily global oil production in 2004 was 80,198,000 barrels 2% is still a significant quantity of a non-renewable resource. Plastic bags on the other hand are manufactured from a by product of oil cracking which may have to be flared off if not used for this purpose.

10.3. It is true that paper does come from a renewable resource, but from the felling of trees to the final delivery of paper bags to the shop, the process of paper bag making still requires energy. Smith Anderson stated in a letter to Mike Pringle\textsuperscript{9} that “oil is not used in the production of paper bags”. This is no doubt true. But if you look at the entire life cycle of paper bags considerable quantities of oil are used, particularly for the extraction of the raw material, wood pulp, and for transportation.

10.4. Smith Anderson have a good record in using recycled paper, but it should still be noted that collecting the used paper and delivering it to the paper mill requires energy, pulping it requires energy, as does making paper out of it. In the absence of better data the costs or benefits cannot be quantified. What it does emphasise is that none of the manufacturing processes associated with disposable bags are environmentally benign.

10.5. The UK Bag Manufacturers’ Association\textsuperscript{21} state in their response to the consultation on the Bill that “on average and in extremis, paper bags will take up approximately twice the storage area and pack volume. Furthermore, when comparing paper to thicker premium polythene bags typically used in high street non-food retail outlets (such as fashion shops), the difference between polythene and paper is negligible from the standpoint of transportation and storage”.

10.6. It is difficult to get measurements of paper bag thickness as the industry tends to use a grams per square meter measurement rather than thickness.
However assuming that the above estimate is correct, although it is difficult to see how on average and in extremis can be one and the same, it would still require twice the number of lorries to deliver a given number of bags to the retailers. It would also take twice the storage space, which if limited could also mean more lorry movements if more frequent deliveries are required.

11. The Possible Switch to Paper Bags

11.1. Whether there will be a significant switch to paper bags as a consequence of the levy is very uncertain. There have been reports of such a switch in Ireland but there is, to date, no quantitative evidence of the extent of this.

11.2. The life cycle evidence suggests that any significant switch would be detrimental to the environment. But a large scale switch is unlikely as the main supermarket chains are very unlikely to follow this course, so it would be restricted to the non-retail sector. Even here it is only certain sections of the industry, such as fashion and shoe shops, that would be likely to move to paper bags.

11.3. Whilst any switch to paper is likely to be small it could be argued that as paper bags are worse for the environment any switch is undesirable.

12. Biodegradable Bags

12.1. A great deal of confusion seems to surround biodegradable bags, particularly in respect of what constitutes a biodegradable bag. This is due to the myriad different variations of biodegradable plastics and often due to dubious marketing of so call "green" products.

12.2. There are a number of ways of classifying biodegradable bags. The classification below is from an article published by the Canadian Plastics Industry Association.

(i) **Bio-degradable**: Materials capable of undergoing biological anaerobic or aerobic decomposition by the action of micro-organisms such as bacteria, fungi and algae under conditions naturally occurring in the biosphere.

(ii) **Compostable**: Materials that undergo degradation by biological processes during composting to yield CO2, water, inorganic compounds and biomass at a rate consistent with other compostable materials in commercial/industrial composting conditions and leave no visible, distinguishable or toxic residue.

(iii) **Oxo-degradable/ Biodegradable**: Materials that undergo degradation via a multiple stage process using a chemical additive to initiate the degradation, which may be triggered by Ultra-Violet (UV) sunlight, heat and/or mechanical stress with remnants then going through bio-degradation over time.

(iv) **Photo-degradable**: Materials that degrade under the action of ultra violet (UV) light such that the material loses strength and fragments into minute particles.

(v) **Water-soluble**: Materials that are soluble in water, usually within a specific temperature range and then bio-degrade through the action of micro-organisms
12.3. Because of the different types of biodegradable bags, making an assessment of the environmental impacts is very difficult. SEPA was able to find one study which specifically looked at biodegradable plastics. The findings are summarised in table 2, page 10.

12.4. The conclusions were:

"Polymer based reusable bags have lower environmental impacts than all of the single-use bags. Degradable bags have similar greenhouse and eutrophication impacts to conventional HDPE bags. If the degradable material can be kept out of landfill, and managed through composting the greenhouse impacts will be reduced, but not eliminated. The synthetic polymer bags have higher impacts on resource impacts (abiotic depletion). The study developed a indicators for litter which attempt to represent some of the damage effects caused by litter. Litter impact are lowest for the reusables, but of all the single use bags, the biodegradable generally have lower emissions, although in the marine environment it is the density of the bridgeable material which matters and not its degradability".

12.5. Such materials do have a role to play, as niche products, for example collection bags for biodegradable waste going to composting.

12.6. To simply replace plastic bags with biodegradable plastic bags would do nothing to change the current use and dispose culture. To exempt them from the levy as has been suggest would send a totally contradictory message on waste prevention.

13. Conclusions

13.1. A number of conclusions can be drawn from the above evidence. In terms of the aims of the Bill;

(i) As an anti litter measure the Irish Tax has been a success.

(ii) As an awareness raising measure it is more difficult to say whether or not the Irish Tax has been a success. Awareness does seem to have been raised been raised, and the Tax played an important part in this, but so did a range of other measures. It seems to be that the impact of all the measures put together has had the main impact.

(iii) There is a concern over the effects of plastic bag litter on wildlife. However until the extent of any plastic bag litter problem in Scotland is established it is uncertain what effect the Levy would.

(iv) There is no evidence that the Levy would have any significant impact on the quantity of plastic going to landfill.

13.2. In terms of the wider environmental impacts and sustainable development issues:

(i) The AEAT report, despite the constraints under which it was produced, is consistent with other studies carried out around the world in concluding that plastic disposable bags have less potential environmental impacts than paper bags.
(ii) Issues such as the comparability of plastic and paper bags on functionality, or the recycling rate of paper bags, could affect the detailed results. But there is no evidence that they affect the overall outcomes.

(iii) The life cycle evidence is that non-renewable resource depletion is overall greater for paper bags than plastic bags.

(iv) The percentage of paper recycled does not affect the overall results.

(v) While some of the LCA studies are old, there is a consistent trend right through to the most recent studies, which conclude that plastic bags have less potential environmental impacts than paper bags.

(vi) There is likely to be a switch to paper bags, particularly in fashion and shoe retailers. The extent of this switch is unknown, but is not likely to be large.

(vii) The use of biodegradable bags overall is not better on environmental grounds than plastic bags, and sends out a contradictory message to the waste prevention message the Bill aims to get across.

13.3. It has to be said at the outset that if the plastic bag levy is to be introduced on the basis of clear and unambiguous evidence of the environmental impacts it would be an error. There is a clear lack of evidence specific to Scotland or the United Kingdom of the environmental impacts of plastic bags or the alternatives.

13.4. The aims of the levy are to “to reduce the number of plastic bags in the waste stream as litter or in landfill site. It also aims to raise a general awareness of the environmental issues of reduce, recycling and reusing waste”.

13.5. The experience in Ireland shows that a Levy, or Tax, can be an effective anti-litter measure. The problem in Scotland is that no work has been undertaken to establish if there is a litter problem from plastic bags, or how widespread it is. The LEAMS system does not even classify plastic bags separately as so few have been picked up by the monitoring. But as most bags end up in soft landscaping features such as trees and bushes, not covered by LEAMS, this is not surprising.

13.6. There is certainly a perception that there is a problem, and this should not be taken lightly. But an expansion of the LEAMS survey to include litter in trees, bushes, fences etc is required before it is possible to say that there is a significant problem in Scotland. However if such a problem does exist it should be noted that with the increasing reliance of Scotland’s economy on tourism it could have a significant detrimental effect on Scotland as a whole.

13.7. Recorded litter is a greater problem on beaches and in the marine environment. But even on beaches where there is better data available it constitutes only 2.3% of the litter. The same survey found 35.4% of beach litter was left by visitors. Litter on beaches is a problem, but if 35.4% is left by visitors then 64.6% is washed onto the beach from elsewhere, possibly overseas.

13.8. So what overall effect the levy would have even on beach litter is uncertain. Litter is a human behavioural problem as much as a material problem and
wider measures designed to stop all litter may be more effective in tackling this problem than a levy on a very small part of it. It was noted by the SSPCA in their evidence to the committee that a few years ago they would have argued for legislation against fishing line and lead weights being discarded. However an effective education programme has vastly reduced this problem.

13.9. The effect on wildlife both on land and in the marine environment does seem to be a real problem. On land it is one part of the overall litter problem which has been addressed above. In the marine environment it is an international problem which requires international solutions. Whether a levy would enable Scotland to apply more pressure for an international solution is unknown, but in isolation it is unlikely to have more than a very small impact on the overall problem.

13.10. The only evidence put forward on the effect on landfill was from the Irish Government, who felt that the effect of the Irish Tax was neutral on landfill. As a whole plastic bags make up a very small proportion of the total waste stream, 0.3%, so any impact on landfill is at best likely to be very small compared to the total waste landfilled in Scotland at the present time.

13.11. The levy does have the potential to have a big impact on public awareness. However the evidence from Ireland is inconclusive, and the raised awareness seems to be the results of a number of pieces of legislation and the high cost of disposal in Ireland acting together to affect public awareness. In isolation there is a great risk that the levy would at best raise awareness of a single issue, and at worse simply make people aware that they have to pay for plastic bags.

13.12. The AEAT study has been criticised in a number of quarters. However, unless the time and resources were available to undertake a full-scale life cycle assessment of shopping bags in Scotland it is the best evidence of its kind available, using the best available data to hand for the Scottish situation.

13.13. SEPA would support the conclusions of the report as they are broadly in line with other studies carried out around the world. There are areas where the assumptions could be questioned. However while these may have an outcome on the results it is unlikely they would alter the overall conclusion.

13.14. Whatever the concerns regarding the AEAT report, is does confirm one thing, that any environmental effects of the levy would at best be very moderate. Friends of the Earth acknowledged this during their oral evidence to the committee. The issue has taken on an importance far in excess of any environmental gains that might be achieved.

13.15. As an anti litter measure the Irish Tax has been a success producing a reduction in plastic bag litter commensurate with the 95% fall in plastic bag use. However until a full assessment of the effects of the Tax has been carried out there is very little evidence to support some of the wider claims made for the success, or failure, of the Tax in other areas.

13.16. Overall the Irish experience does however seem to teach Scotland one lesson with regards to its effectiveness in raising public awareness.
13.17. In his evidence John Curran of the Musgrove Retail Group agreed there was now a greater awareness among the Irish public of waste issues. But he did not seem to believe that the Tax by itself had had this effect. He noted that "a common theme runs through much of the legislation".

13.18. This would suggest that by itself a Levy may not succeed in raising public awareness. But as part of a wider range of waste prevention measures it could be a significant factor.

13.19. The impact of the levy in Scotland should also be looked at in the wider terms of sustainable development. The impacts on jobs would not be insignificant and has to be taken into account. If the plastic bag industry is to be able to diversify its production it would need a transitional period to allow it time to do so. As was stated in the oral evidence given to the Committee by SEPA, this is a relatively small example of the type of decisions that will be required in the future if Scotland is serious about sustainable development.

13.20. As one part of a range of waste prevention initiatives SEPA believe a levy could be a significant factor in raising awareness of the wider environmental issues surrounding one trip disposable products. However it is doubtful if this could be achieved simply by applying a levy to one form of disposable bag. It would risk sending a mixed message that one trip products are acceptable, but dependent on what they are made of. Why make it permissible to give away a paper bag which has potentially higher environmental impacts and charge for a plastic bag?

13.21. However if implemented as part of a wider range of waste prevention measures, which SEPA believe should include a levy on all types of disposable bags, it could provide a powerful message that one trip products are not environmentally sustainable, and that ultimately the best environmental option, no matter what material a shopping bag is made from, is to reuse it as often as possible. It could also provide a precursor to future levies on other one trip products.

14. Final Conclusions and Recommendations:

14.1. In terms of the aims of the Bill;

(i) The Levy could have significant benefits as an anti litter measure, but at the present time there is a lack of evidence on whether or not there is a real problem with plastic bag litter in Scotland, or just the perception of a problem.

(ii) The Irish experience would suggest that it would have little effect on the disposal of plastic to landfill.

(iii) A Levy could be a significant factor in raising public awareness of environmental issues, as part of a range of waste prevention measures. But there is no direct evidence to support this.

14.2. In terms of the wider environmental effects of the Levy and sustainable development;

(i) The AEAT report does provide a reasonable picture of the relative environmental impacts of the different types of shopping bags looked at.
(ii) Any environmental benefits from the Levy would at best be modest.

(iii) The Levy should be applied to all one trip disposable shopping bags.

(iv) The industries in Scotland should be given transitional time to diversify into other areas of production, for example bags for life.
Appendix 1.

The Scottish Environment Protection Agency

Written Submission to the Environment and Rural Development

Committee hearings on the Plastic Bag Levy (Scotland) Bill
Environmental Levy On Plastic Bags (Scotland) Bill –
Scottish Environment Protection Agency Position Statement

1. Introduction

1.1. With the introduction of the Environmental Levy On Plastic Bags (Scotland) Bill, via a Private Members Bill in the Scottish Parliament, SEPA needs to ensure that it has a justifiable and robust position on the bill. The aim of this paper is to assess the evidence on the potential effects of the bill and to recommend the position SEPA should take in response to the bill. This paper assesses the work carried out around the world on the environmental impacts of plastic versus paper carrier bags, and looks at other potential impacts such as social and cultural effects.

2. Environmental Impacts

2.1. A number of studies on the environmental impacts of plastic bags have been carried out around the world. Unfortunately for the current purposes none of the studies have been carried out in the United Kingdom, and only one is recent (2004). All of the studies used life cycle assessment to assess the impacts of various types of carrier bags including non-biodegradable and biodegradable plastic bags and paper bags.

2.2. The most recent study was carried out in France for Carrefour, one of the world’s largest retail groups. The study looked at four types of bag, disposable thin plastic bags, reusable thick plastic bags, disposable paper bags, and disposable biodegradable plastic bags.

2.3. Seven standard environmental indicators were used, energy consumption, water consumption, global warming potential, air acidification, photochemical oxidants emission, eutrophication and solid waste production. In addition an eighth indicator was developed for this study, the ‘risk of loss’ of the bag in the environment.

2.4. The conclusion was that if used more than four times the reusable thick plastic bag was better for all indicators than all other bag types. The disposable plastic bag was better than paper or biodegradable bags, but it’s main weakness was the high risk of loss to the environment.

2.5. A similar conclusion has been reached by a number of other studies. A report for Environment Australia which looked at a larger range of bag types but fewer indicators, found that reusable woven HDPE bags had less environmental impacts than all other bag types, Table 1.

2.6. As with the Carrefour study the paper bag had significantly higher environmental impacts than all of the plastic alternatives other than the Boutique LDPE. The latter is intended as a single use bag designed to carry clothes or general retail items and is not normally obtained from supermarkets.

2.7. Table 1 also includes data for litter. However this is purely a measure of the material that has escaped into the environment. The Carrefour ‘risk of loss’ indicator attempts to take into account not only the quantity escaping into the environment, but also persistence in the environment, which is generally perceived as the real problem with plastic bags.
2.8. Franklin Associates Ltd\(^1\) compared polyethylene and unbleached paper sacks in the USA. In common with the reports referred to above they found plastic bags showing less energy use, less emissions, and less solid waste.

<table>
<thead>
<tr>
<th>Alternative</th>
<th>Material Consumption</th>
<th>Litter (kg)</th>
<th>Litter (m(^3))</th>
<th>Litter (m(^3)/yr)</th>
<th>Green-house (CO(_2) equiv)</th>
<th>Primary Energy Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single HDPE</td>
<td></td>
<td>3.12</td>
<td>15.6</td>
<td>0.144</td>
<td>0.72</td>
<td>6.08</td>
</tr>
<tr>
<td>50% Recycled</td>
<td></td>
<td>3.12</td>
<td>15.6</td>
<td>0.144</td>
<td>0.72</td>
<td>4.79</td>
</tr>
<tr>
<td>Single HDPE</td>
<td></td>
<td>11.77</td>
<td>58.8</td>
<td>0.195</td>
<td>0.975</td>
<td>29.8</td>
</tr>
<tr>
<td>Boutique LDPE (single use)</td>
<td></td>
<td>0.96</td>
<td>4.8</td>
<td>0.121</td>
<td>0.0603</td>
<td>2.43</td>
</tr>
<tr>
<td>Reusable LDPE**</td>
<td></td>
<td>1.14</td>
<td>5.7</td>
<td>0.0041</td>
<td>0.0819</td>
<td>2.52</td>
</tr>
<tr>
<td>Calico</td>
<td></td>
<td>0.22</td>
<td>1.1</td>
<td>0.00148</td>
<td>0.00743</td>
<td>0.628</td>
</tr>
<tr>
<td>Woven HDPE</td>
<td></td>
<td>0.421</td>
<td>2.0</td>
<td>0.00187</td>
<td>0.00934</td>
<td>1.21</td>
</tr>
<tr>
<td>(smaller capacity)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PP Fabric 'Green Bag'</td>
<td></td>
<td>0.48</td>
<td>2.4</td>
<td>0.00187</td>
<td>0.00924</td>
<td>1.96</td>
</tr>
<tr>
<td>Knit Paper - Handled</td>
<td></td>
<td>22.15</td>
<td>111</td>
<td>0.156</td>
<td>0.078</td>
<td>11.8</td>
</tr>
<tr>
<td>Solid PP 'Smart Box'</td>
<td></td>
<td>0.42</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>1.1</td>
</tr>
<tr>
<td>Biodegradable - starch lined</td>
<td></td>
<td>6.5</td>
<td>32.5</td>
<td>0.156</td>
<td>0.078</td>
<td>6.61</td>
</tr>
</tbody>
</table>

*Single HDPE – single use high density polyethylene.
**Reusable LDPE – Reusable low density polyethylene (bag for life type carrier bag)
***Calico – cotton carrier bag
****Woven HDPE Bag – large shopping bag made from woven fibres of high density polyethylene

Note: Material consumption was calculated assuming 52 shopping trips per year 10 average plastic shopping bag loads each trip.

2.9. They also looked at the effect of the recycling rate on bag preference. The conclusion is that “using energy and pollutants from all stages of a bags life cycle, both measures result in favour of plastic bags”.

2.10. One aspect of disposable plastic bags which is difficult to quantify, and is therefore often not covered in life cycle studies, is their reuse. Many disposable plastic bags are subject to a number of secondary uses, the most common being as bin liners. It is interesting that when the Irish plastic Bag Tax was introduced the fall in use of disposable plastic bags was accompanied by a rise in the use of bin liners\(^4\). Even though secondary use of disposable plastic bags cannot be quantified, it should still be taken into account.

2.11. Whichever type of bag is used the total environmental impacts from shopping bags are small compared to the total environmental impacts from all sectors across Scotland. However any measure which would reduce global warming impacts is to be encouraged. The use of plastic bags, particularly multiuse plastic bags does show significant benefits in relation to global warming emissions when compared to paper bags.
2.12. One of the primary reasons for the better environmental performance of plastic bags is the much lower weight of bag required to carry a given amount of shopping. An illustration of this is given by Michigan Technical University\(^5\) where the weight of 1000 paper bags is given as 63.5 kg as opposed to a little over 7 kg for plastic bags. If as stated in the Scottish Executive Environment Group Research Report, Proposed Plastic Bag Levy – Extended Impact Assessment\(^6\) the use of paper bags will increase by 174 million to 213 million a year, it will come with associated increases in energy use, transport, storage space and waste disposal. Whilst we accept the recyclability of paper bags this is highly dependent on high levels of public participation and material capture. We therefore believe that a substantial proportion of paper bags could still end up in landfill.

The one area where it can be argued that plastic bags are a greater problem is litter. This may not necessarily be because a higher percentage of plastic bags escape but due to their persistence in the environment and the higher proportion of plastic over paper carrier bags. The Australian report\(^7\) estimated plastic bags have a lifespan in the environment of 5 years, particularly in the sea. Apart from the visual impact which is of greatest concern to many people, when they escape into the sea the bags can do the most damage by suffocating animals that eat the bags due to their similarity to jellyfish.

2.13. Evidence from Ireland where the Plastic Bag Tax was introduced in 2002, primarily as an anti litter campaign, suggests that "littering of plastic carrier bags is no longer a problem"\(^8\). A report for the Department of the Environment, Heritage and Local Government\(^9\) states that the percentage of litter from plastic bags fell from 5% to 0.25% in 2004.

2.14. However, the Environment Group report\(^6\) suggests that plastic bags account for less than 1% of the land litter in Scotland. This suggests that the levy would have minimal impact on the land litter problem in Scotland. One of the problems with litter from disposable plastic bags is the perception that they are a serious litter problem. Their persistence in the environment means that they are one of the most obvious types of litter. When caught in trees or bushes for example they can stay there for considerable time.

2.15. No data was given for any potential benefits from litter in the sea, but if it is assumed that the majority of the bags that enter the seas are blown or washed in from land litter then a similar conclusion could be reached.

3. Social Effects

3.1. When the Area Waste Plans were being developed in Scotland, job creation was one of the criteria used in the decision making process. In the case of the plastic bag levy it is likely that jobs will be lost. It is estimated that 300 to 700 jobs could be lost as a direct result of the levy with knock on effects on 14,500 jobs in associated industries across the UK\(^5\).

3.2. There is also the objection raised in some areas that the levy would impact most on the least well off. This may be true but the estimated costs are not high, £7.41 to £10.58 per year as the bill now stands. Much will depend on whether or not retailers currently pass on the hidden costs of disposable bags to the customer or not.
3.3. According the Scottish Executive’s own Extended Impact Assessment the hidden costs of lightweight plastic carrier bags is £7.51 per 1000 bags. Compared to this they quote the hidden costs of paper carrier bags as £169.69 per 1000 bags. If the effect of the levy was simply a switch to paper carrier bags then the increased hidden costs may continue to be passed on to the consumer.

3.4. While the estimated costs are insignificant in comparison to the average household consumer spend of £365 a week, there is no doubt that as with all flat rate taxes, the poorest will be hit hardest. However if the levy is successful in promoting the use of multiple use bags any impact would be minimised.


4.1. One of the ambitions behind the National Waste Strategy is to move away from the current culture of use and dispose to a more sustainable reduce, reuse, recycle culture. Disposable shopping bags of all types are a high profile example of the use and dispose culture and any measures that are effective in moving the public away from this attitude are to be welcomed. Indeed this is a stated aim of the proposed levy.

4.2. Evidence from Ireland suggests that a levy would have the effect of reducing disposable plastic bags. The initial decrease in their use was 90% and this has now risen to 95%. To date there is little hard data on what has been used to replace plastic bags for shopping.

5. Conclusions

5.1. There seems to be little doubt that on pure environmental grounds plastic bags, both reusable and disposable, are a better option than paper bags and that a tax solely on plastic bags could be detrimental to the environment due to the higher environmental impacts associated with any potential shift to paper bags. In addition the predicted effect on litter is such that it could be hard to argue for the introduction of a levy simply as an anti litter measure. There are also the implications for people employed directly or indirectly in the plastic bag and film industry to take into account.

5.2. Simply looking at these factors the levy does not seem to be an attractive proposition. Particularly in light of the bills proposer Mike Pringle’s comments that “it aims to alter people’s behaviour to help protect the environment”

5.3. However a levy would be a very high profile way of starting a culture change away from the use and dispose culture to a more sustainable reduce, reuse, recycle culture.

5.4. As it stands, a tax only on plastic bags, the levy would have few if any environmental benefits. However if the idea of a levy was extended to include all disposable shopping bags then it could have both positive environmental benefits and make a significant contribution to changing the use and dispose culture.

5.5. To simply target a levy on disposable plastic bags could result in higher environmental impacts by favouring disposable paper bags, rather than maximising the benefits of reusable bags, and give a mixed message on the need to reduce the use of disposable products. SEPA could only support the idea of a levy on disposable shopping bags if the bill as it currently stands is amended to include paper, biodegradable and non-biodegradable plastic carrier bags.
5.6. Such an amendment would have the effect of delaying the current bill as a further round of consultation would be required. It could even require the current bill to be abandoned and a new bill introduced at a later date. Such a delay would in the long term be worthwhile if it means that the bill both benefits the environment and changes consumer behaviour for the better.

5.7. Any decisions on levies of this type must address whether or not they will promote sustainable development. Are the environmental benefits such that any loss of jobs or economic growth can be justified? It may be questionable whether the small benefits of the plastic bag levy at it stands can justify the potential job losses, if the levy is only looked at in terms of the short term environmental benefits. But if a longer term view is taken and the potential benefits to reducing the use and throw away culture is taken into account, and with that the potential environmental benefits of this change, then it can be justified provided government acts in advance of the introduction of the levy to minimise the impacts of the jobs losses. SEPA would support a longer term strategy to gradually reduce the use of all non reusable products where reusable alternatives are available and where industry were given sufficient time to adjust to new production opportunities.

5.8. Provided the levy can address the potential risk of a shift to the use of paper bags and is accompanied by a high profile publicity campaign on the need to reduce waste, and in particular disposable goods in general, then it could provide a powerful kick start to a change towards a more sustainable consumer culture. This would be in line with the Scottish Executives investment in other sustainability issues such as home composting and refurbishment projects. It may also enable a move to place levy’s on other one trip disposable products, such as razors and cigarette lighters, where reusable alternatives exist.

Allan Dryer
Senior Policy Officer – Life Cycle Assessment
Scottish Environment Protection Agency

References:
Available from: [www.carrefour.fr/pdf/rapport_carrefour_post_revue_critique.pdf](http://www.carrefour.fr/pdf/rapport_carrefour_post_revue_critique.pdf)


4 Plastic Bags in our Environment. The Packaging and Industrial Films Association

5 Life Cycle Analysis of Paper and Plastic Bags
Available from: [techalive.mtu.edu/mec/e/module14/title.htm](http://techalive.mtu.edu/mec/e/module14/title.htm)
Available from: [www.scotland.gov.uk/Topics/Environment](http://www.scotland.gov.uk/Topics/Environment)

7 The National Litter Pollution Monitoring System. Litter Monitoring Body. System Results August 2004

Appendix 2.

Summary of International Measures Taken to
Reduce the use of One-Trip Plastic Bags
<table>
<thead>
<tr>
<th></th>
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<th></th>
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<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Yes – between the National Government and major retail chain.</td>
<td>No</td>
<td>No – but under consideration if the voluntary schemes fail</td>
<td>No</td>
<td>Collected in-store</td>
<td>Being considered as an anti-litter measure and as a way of raising public awareness of resource consumption and resource efficiency issues</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>NA</td>
<td>Yes</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>Specifically due to plastic bag litter blocking drains and causing severe flooding</td>
</tr>
<tr>
<td>Belgium</td>
<td>Yes – the retail industry and government have agreed a scheme to reduce the use of plastic bags by 20 to 25 per cent between 2004 and 2006, and in the same period to double the use of ‘bags for life’</td>
<td>No</td>
<td>No</td>
<td>Variable – many larger stores in particular charge for plastic bags</td>
<td>Yes</td>
<td>NA</td>
</tr>
<tr>
<td>Denmark</td>
<td>No</td>
<td>No</td>
<td>Yes – tax paid by the retailer when they purchase the bags</td>
<td>In most cases, Yes</td>
<td>NA</td>
<td>Part of a wider green tax on packaging. Designed to reduce all packaging waste. Reduced bag use by 60%</td>
</tr>
<tr>
<td>Finland</td>
<td>No</td>
<td>No</td>
<td>Supermarkets pay a levy on the number of</td>
<td>Yes</td>
<td>NA</td>
<td>Not considered an issue since new recycling measures introduced in 1990's. When a specific bag tax was examined in 1999 it was deemed as not</td>
</tr>
<tr>
<td>---------</td>
<td>------------------------</td>
<td>--------------------------</td>
<td>-------------------------------------</td>
<td>-----------------------------------</td>
<td>--------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>France</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Introduced as an anti-litter measure for the French agricultural industry, as plastic bags are seen as sales packaging and are regulated by the Ministry of Agriculture.</td>
</tr>
<tr>
<td>Germany</td>
<td>Yes</td>
<td>No</td>
<td>Yes (in all large supermarkets)</td>
<td>Yes</td>
<td>Yes</td>
<td>Waste Ordinance, introduced as a measure to reduce the environmental impacts of plastic bags.</td>
</tr>
<tr>
<td>India</td>
<td>Yes</td>
<td>No (bags &lt; 20μm are banned in some areas)</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Introduced as an anti-litter measure by the Maharashtra government after flooding in 2005.</td>
</tr>
<tr>
<td>Iceland</td>
<td>Yes</td>
<td>No</td>
<td>€2 per bag</td>
<td>Yes</td>
<td>No</td>
<td>The income from the levy is used for a range of projects, generally environmental. This has had the effect that people have been known to &quot;buy one extra&quot; for the environment.</td>
</tr>
<tr>
<td>Ireland</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Introduced as an anti-litter measure.Achieved &gt;95% reduction in bag use and litter.</td>
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<tr>
<td>Kenya</td>
<td>Yes</td>
<td>Yes (bags &lt; 30μm are banned)</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Measures introduced due to poor waste management system failing to cope with plastic bags which become a litter problem. In addition, discarded bags are beneficial for. All bags in Finland are charge for and must be made of recycled material.</td>
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<tr>
<td>Country</td>
<td>Status</td>
<td>Bags under 24 µm Are Banned</td>
<td>Bags over 24 µm Are Banned</td>
<td>60.10 per bag</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>--------------</td>
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<td>-----------------------------</td>
<td>----------------------------</td>
<td>----------------</td>
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</tr>
<tr>
<td>Malta</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>60.10 per bag</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>South Africa</td>
<td>Yes</td>
<td>Bags under 24 Rand per kilogram on</td>
<td>Yes</td>
<td>No</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>bags over 24 µm Are banned</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>Switzerland</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td></td>
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<tr>
<td>Taiwan</td>
<td>Yes</td>
<td>Bags under 60µm Are banned</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>
References


7 Submission from the SSPCA Available from: http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm

8 Submission from the MCS Available from: http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm


11 Kraft News 01/2005
Available from http://www2.upm-kymmene.com

12 Submission from ASDA.
Available from:
http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm

13 Musgrove Group Oral Evidence. Environment and Rural Development Committee
Official Report 2 November 2005
Available from:
http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm


15 Submission from the Paper Packaging Co-Ordination Group.
Available from:
http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm

16 Friends of the Earth Oral Evidence. Environment and Rural Development Committee
Available from:
http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm


18 Supplementary Written Submission from Mike Pringle MSP.
Available from:
http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm

19 The Holes In The Argument For A Carrier Bag Tax.
Available from the Carrier Bag Consortium. www.carrybagtax.com

20 Supplementary Written Evidence From WRAP.
Available from
http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm

21 Submission from the UK Bag Manufacturers Association.
Available from:
http://www.scottish.parliament.uk/business/committees/environment/currentInquiries.htm
Environment and Plastics Industry Council of Canada

Available from: http://spia.ca
Response to Environment Committee’s Stage 1 Report on the Environmental Levy on Plastic Bags (Scotland) Bill

I refer to the Committee’s 13th Report 2005 the Stage 1 Report on the Environmental Levy on Plastic Bags (Scotland) Bill. I am grateful to the Committee for their helpful summation of the evidence received and now provide the information sought within the conclusions from paragraph 138 onwards.

I appreciate that the Committee has been required to consider a large volume of evidence and I have endeavoured to keep this submission as focussed as possible. I would welcome any further opportunity to provide oral evidence when the Committee resumes its consideration of the general principles in September.

Awareness Raising
One of the principal strengths of my Bill is its ability as a vehicle to raise awareness of resource use, waste prevention and management issues. The Committee received evidence that the Bill would contribute to a change in consumer attitude and behaviour on these issues. A levy on plastic bags would be an immediate, visible and enduring reminder of an environmental issue which would affect every consumer.

There is public support for a levy supported by poll figures including one by MORI in 2003 which showed only 27% were against. No witnesses before the Committee disputed that a levy would lead to a reduction in litter from plastic bags, indeed such an effect is self evident.

The AEAT report concluded that the levy would result in positive outcomes on the majority of environmental assessment indicators it studied. The Scottish Consumer Council’s evidence noted that “Charging consumers for their use of plastic bags can be an important element in awareness raising of environmental issues and a potential catalyst for wider behavioural change.”
VAT
In relation to whether VAT will be imposed on the Bill my further legal advice is that this is possible but that the final decision is one for HM Treasury to make. I understand that HM Treasury will not make any definitive decision until the Bill becomes law.

Legal advisers have been able to ascertain the basis upon which VAT might be chargeable and this hinges on an interpretation of community law and in particular the definition of what a “consideration” is. There is conflicting case law in this regard and I note also that the same Directive applies in Ireland where VAT has not been applied. It remains my firm expectation that as in Ireland VAT will not be chargeable on the levy.

Substitution to Paper
I am advised the scope of my Bill is such that paper bags could not be added to it. However I am clear that while there will inevitably be a small degree of substitution to paper the volume is likely to be insignificant in comparison to the current usage of around 1 Billion bags per annum in Scotland.

There is evidence that around 80% of plastic bags used are issued by the supermarkets. Evidence from the supermarkets was clear that they would not substitute paper for those bags. There is thus an immediate reduction of 800 million bags.

Evidence also suggested that smaller retailers would use the passing of the Bill as an opportunity to save on overheads and the vast majority would also not substitute paper for plastic. Again evidence given to you was that many high street retailers have already made the switch to paper based products.

The evidence you have heard on this matter is supported by the experience in Ireland where the Musgrove Group, who have 25% of the retail food sector, do not offer a paper alternative. It is further supported by the evidence that there are increased costs through substitution which retailers generally are unlikely to take on. B&Q’s evidence to the Committee noted that “Any business which currently uses a significant number of plastic bags is likely to make a cost saving with the anticipated reduction in bags used”.

Finally the Committee will have noted that even with a small level of substitution this is relatively good news given that paper is now heavily recycled in Scotland in contrast to the complete absence of any local authority facilities to recycle plastic bags. 99% of paper bags used in Scotland are manufactured in Scotland according to the UK Bag Manufacturers

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2 Committee Report para 68
3 Committee Report para 72
4 Committee Report para 73
5 Official Report, Wednesday 2 November 2005, column 2322
6 Committee Report para 77
Association, mostly from recycled raw materials. By contrast 99% of plastic bags are imported, having been manufactured from new raw materials.

Collection and Administration Costs
The financial memorandum at paragraphs 97-98 sets out the expectation that administrative costs on retailers will be minimal given the limited information they require to collect. It further suggests that these costs should be more than offset by the reduction in purchase costs retailers currently face arising from the dramatic drop in consumption.

To assist the Committee I contacted two local authorities one representing a large city and the other a less populated urban district to obtain their expectations on the financial impact the introduction of the levy would bring. Both authorities are predicting a surplus of income from the levy over expenditure, enforcement, collection and running costs. These predictions also take full account of start up costs.

Aberdeen City Council have estimated a surplus to be applied to environmental purposes in year 1 ranging from £2.1 million (10% reduction on current usage) to £230k (90% reduction in current usage). In subsequent years the surplus is increased by over 50% with the respective figures being £3.2million to £357k.

Argyle and Bute District Council on the basis of a 90% reduction in usage of plastic bags estimate a net surplus to be applied to environmental purposes of £50k in year 1 rising by almost 50% to £74k in year 2.

I have taken these figures and applied them to all local authorities on a pro rata population basis. Based on a similar expense and cost basis to that above and using a reduction in usage of 90% I am able to estimate an annual surplus to be applied to environmental purposes across the whole of Scotland of between £2.8m and £5.8m in year 1 rising to between £4.1m and £9m in year 2. These figures are potentially understated as there will be economies of scale that can be applied in many districts (see Annexe A below).

I have also revisited the possibility of centralised collection arrangements and how that could be achieved within the competence of the Scotland Act 1998. While I am pleased to advise that the advice I have received is that there would be no competence impediment to councils voluntarily agreeing to centrally collect the levy, it would not however be competent to require central collection on the face of the Bill. Councils currently have sufficient powers to do this either by arranging for the discharge of the collection function by an officer of another local authority under section 56(1) of the Local Government (Scotland) Act 1973 or by joining together to do so through a joint committee formed under section 56(5) of that Act.

Proposed Amendments to the Bill
The Committee report requests details of any amendments I propose for the Bill. I am looking forward to the Committee’s final report and should the
Committee recommend areas for amendment I would be pleased to work with and assist the Committee in producing amendments to achieve your aims.

In conclusion I recognise the considerable work undertaken by the Committee to reach this stage. I am pleased that the Committee has recognised how much the discussion alone of my Bill has raised awareness of the general issues of resource use and waste management. I totally agree with the Committee when you acknowledge that a plastic bag levy is a powerful tool to reduce usage and I look forward to the Committee’s final report on the general principles.

Yours sincerely

Mike Pringle MSP
Member in Charge of the Bill
### Annexe A

<table>
<thead>
<tr>
<th>Council areas</th>
<th>Estimated population 30 June 2005</th>
<th>Money raised on Aberdeen figures year 1</th>
<th>Money raised on Argyll figures year 1</th>
<th>Year 2 +</th>
<th>Year 2 +</th>
</tr>
</thead>
<tbody>
<tr>
<td>SCOTLAND</td>
<td>5,094,800</td>
<td>5,790,404</td>
<td>8,987,714</td>
<td>2,803,345</td>
<td>4,148,951</td>
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<td>Aberdeen City</td>
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<td>230,000</td>
<td>357,000</td>
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<tr>
<td>Aberdeenshire</td>
<td>235,440</td>
<td>267,585</td>
<td>415,339</td>
<td>129,595</td>
<td>191,800</td>
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<td>Angus</td>
<td>109,170</td>
<td>124,075</td>
<td>192,586</td>
<td>60,091</td>
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<tr>
<td>Argyll &amp; Bute</td>
<td>90,870</td>
<td>103,277</td>
<td>160,303</td>
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<td>Clackmannanshire</td>
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<td>55,270</td>
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<td>Dumfries &amp; Galloway</td>
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<td>168,593</td>
<td>261,686</td>
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<td>Dundee City</td>
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<td>161,581</td>
<td>250,801</td>
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<td>115,818</td>
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<td>Edinburgh, City of</td>
<td>457,830</td>
<td>520,338</td>
<td>807,656</td>
<td>252,006</td>
<td>372,969</td>
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<td>Eilean Siar</td>
<td>26,370</td>
<td>29,970</td>
<td>46,519</td>
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<td>629,323</td>
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<td>Glasgow City</td>
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<td>657,813</td>
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<td>Highland</td>
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<td>376,793</td>
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<td>570,544</td>
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<td>Stirling</td>
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