The Committee will meet at 2.00 pm in the Hub, Castlehill, Edinburgh.

1. **Scallop industry:** The Committee will take evidence on current issues affecting the Scottish scallop industry from—
   
   Patrick Stewart, Clyde Fishermen's Association  
   Doug McLeod, Association of Scottish Shellfish Growers  
   Euan Beaton, Macduff Shellfish (Scotland) Ltd  
   Hector Stewart, Western Isles Fishermen’s Association  
   John Hermse, The Scallop Association  
   Hugh Allen, Mallaig and North West Fishermen’s Association  
   Paolo Caricato, Health and Consumer Protection Directorate-General, European Commission  
   Martin Reid, Head of Policy – General Food Hygiene, Food Standards Agency Scotland  
   Gabby Pieraccini, Inshore Fisheries Branch, Scottish Executive Environment and Rural Affairs Department.  
   David Ford, Fisheries Strategy Branch, Scottish Executive Environment and Rural Affairs Department.

2. **Inquiry into Integrated Rural Development (in private):** The Committee will consider a draft report.

Tracey Hawe  
Clerk to the Committee
The following papers are attached or are relevant to this meeting:

<table>
<thead>
<tr>
<th><strong>Agenda item 1</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Briefing paper from the Committee’s reporters</td>
<td>RD/02/23/1</td>
</tr>
<tr>
<td>Submission from Clyde Fishermen’s Association</td>
<td>RD/02/23/2</td>
</tr>
<tr>
<td>Submission from Western Isles Fishermen’s Association</td>
<td>RD/02/23/3</td>
</tr>
<tr>
<td>Submission from Mallaig &amp; North West Fishermen’s Association</td>
<td>RD/02/23/4</td>
</tr>
<tr>
<td>Submission from the Food Standards Agency Scotland</td>
<td>RD/02/23/5</td>
</tr>
</tbody>
</table>

The FSA Scotland consultation paper on the implementation of Commission Decision 2002/226/EC (and accompanying documents) can be viewed on the FSA website. A hard copy of this document is available from the clerks. This paper includes:
- a copy of Commission Decision 2002/226/EC
- draft version of The Food Safety (Fishery Products and Live Shellfish) (Hygiene) Amendment (Scotland) Regulations 2002
- draft Guidance Notes for Enforcement Officers
- Partial Regulatory Impact Assessment
- Brief Guide to the Sampling Conditions for the Tiered System
- Flow Diagram demonstrating the Tiered System

The Scottish Executive consultation paper on The Prohibition of Fishing for Scallops (Scotland) Order 2001. This is a consultation issued in April 2001 on the proposed technical conservation measures.

<table>
<thead>
<tr>
<th><strong>Agenda item 2</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Draft Integrated Rural Development report (<em>for Members only</em>)</td>
<td>RD/02/23/7</td>
</tr>
</tbody>
</table>
RURAL DEVELOPMENT COMMITTEE

Issues affecting the Scottish scallop industry

Briefing from the Committee’s reporters on Amnesic Shellfish Poisoning (ASP)

On 18 December 2001 the Committee appointed us as reporters to monitor developments on ASP. This continued work done by Rhoda Grant, who was initially appointed as reporter in June 2001, and gave interim reports to the Committee on 23 October 2001 and 18 December 2001.

On 24 September 2002 the Committee decided to take oral evidence on 8 October on issues affecting the scallop industry. It decided to seek evidence on developments regarding testing for ASP and on proposed technical conservation measures for the scallop fishery.

1. Background

In its second report of 1999 the Rural Development Committee considered the background to this issue and reported on the ‘Impact of ASP on the Fisheries Sector’.

The European Council Directive 91/492/EEC specifies the maximum toxin levels in edible parts of shellfish, establishing an ASP limit of 20 micrograms of Domoic Acid per gram of flesh. Regular sample testing takes place, and fishing areas are closed if samples indicate a level above this. Many areas of scallop fishing grounds around Scotland have been subject to significant closures in recent years.

However, the concentration of toxin in different parts of the scallop varies dramatically, with the level in the edible parts usually lower than the legal limit, even where the toxin level in the whole scallop is well above the limit. Following requests from the scallop industry and the Food Standards Agency, the EU Standing Veterinary Committee (now the Standing Committee on the Food Chain and Animal Health) examined a system of tiered testing.

A tiered testing system can come into effect when the level of ASP exceeds 20 micrograms per gram in the whole animal. Marketing of whole animals is then prohibited, but processed edible parts can be marketed if end–product testing shows ASP below a trigger level. This allows marketing of some processed product from a fishing area which would otherwise be closed.

The Standing Veterinary Committee’s work led to Commission Decision 2002/226/EC which was agreed on 15 March 2002. This establishes the conditions under which scallops can be harvested and marketed where the level
of ASP in the whole animal exceeds the legal limit. Essentially this aimed to give the industry increased flexibility.

However, as part of the Decision a trigger level of 4.6 micrograms per gram was set. This is a statistical measure to ensure that, taking account of inter-animal variability in concentration of toxin, the chances of anyone consuming products exceeding the 20 microgram legal limit are minimised. If sampling shows the level of toxin in edible parts to be below 4.6 micrograms the processed parts can still be marketed. If above 4.6 micrograms the fishing area will effectively be closed.

The implications of this trigger level have been the main concern of the industry. The industry believes that it has been reached on biochemistry undertaken on mussels and that its application to the scallop fishery is overly precautionary in terms of public health. It also believes that it will place a huge additional cost burden on industry.

2. Previous committee activity

a) Scientific basis of the Decision

On 23 October 2001 the Rural Development Committee expressed concern at the scientific basis for the Draft Decision. European Commission officials have acknowledged the legitimacy of further scientific inquiry, and accepted that the Decision could be reviewed in the light of new evidence. Industry representatives are pursuing appropriate work in this area. Following further consideration on 18 December 2001, the Committee wrote to the Minister, Ross Finnie MSP, requesting that he ensure cooperation with this research effort by the appropriate bodies (such as the Fisheries Research Service).

b) Implementation of Commission Decision 2002/226/EC

Member states are free to decide whether or not to implement the tiered testing regime. The choice faced is whether to proceed on the basis of simply closing a fishing ground when a sample from it exceeds 20 micrograms per gram in the whole animal, or to implement the tiered testing regime with the lower trigger level.

The Food Standards Agency conducted consultation in December 2001 with industry interests and enforcement bodies. Industry interests were broadly in favour of implementing the tiered testing regime, but with concerns about the trigger level and about the cost and level of bureaucracy associated with implementation.

In June 2002 the Food Standards Agency then conducted a second consultation exercise on the practical measures required to adopt the Decision. These measures are set out in a draft SSI to be known as The Food Safety (Fishery Products and Live Shellfish) (Hygiene) Amendment (Scotland) Regulations 2002.
The FSA has also invited comment on a partial Regulatory Impact Assessment. This consultation closed on 27 September. (When formally laid before the Parliament, the Regulations are likely to be considered by the Health and Community Care Committee.) Some concerns have been expressed by the industry that the proposed implementation is more stringent than required by the Commission Decision.

The Rural Development Committee previously indicated that it may want to consider receiving a further report or taking evidence at the time of this second consultation, and on 24 September 2002 the Committee agreed to a programme of oral evidence on 8 October.

3. Proposed Technical Conservation measures

The Rural Development Committee also decided to take evidence on 8 October on proposed technical conservation measures for scallop fisheries. The Scottish Executive has proposed measures which would include limitations on when the fishery could be exploited, and restrictions on the gear to be used in scallop fisheries. These measures have been under consideration for some time, and are subject to ongoing discussion with the industry. If proposals are formalised they are likely to come before the Rural Development Committee as a statutory instrument in due course.

These proposed measures are not related directly to the ASP issue, and are not required by European Union legislation. Some industry representatives have expressed concern about the measures. In addition, the cumulative effect of these measures and the restrictions due to ASP is of concern to some members of the industry. With significant fishing ground closures due to ASP, the technical conservation measures will restrict fishing in the areas which remain open.

4. Oral evidence on 8 October

On 24 September the Committee agreed that evidence-taking on 8 October would cover both ASP and the proposed technical conservation measures. On ASP, the Committee agreed to focus on the implications of the way in which tiered testing may be implemented in Scotland rather than on the scientific basis of the Commission Decision. The key questions relate to whether the tiered testing regime proposed for Scotland goes further than that required by the Commission Decision, and the likely impact of the measures on the fishery.

It is proposed to hear from witnesses in the following panels:

1) Clyde Fishermen's Association
Association of Scottish Shellfish Growers
Macduff Shellfish (Scotland) Ltd

2) Scallop Association
Mallaig and North West Fishermen's Association
Western Isles Fishermen's Association
5. Conclusion

This briefing paper is provided to assist the Committee in preparing for taking evidence on 8 October. In the light of the evidence heard the Committee may wish to consider any further action which may be required.

Fergus Ewing MSP
Rhoda Grant MSP
Jamie McGrigor MSP
3 October 2002
RESPONSE OF THE

CLYDE FISHERMEN’S ASSOCIATION

TO THE PROPOSAL OF

FOOD STANDARDS AGENCY
SCOTLAND
It is with some anxiety that the Clyde Fishermen’s Association (CFA) embarks on its response to the consultation on the above draft Regulation and its supporting measures issued by the Food Standards Agency Scotland (FSAS) on 27 June 2002. The anxiety stems from the allegation it makes that FSAS has misunderstood its legal and administrative duties relating to the control of Amnesic Shellfish Poisoning (ASP) in bivalve molluscs. The anxiety is compounded by a serious concern that the misunderstanding may not be all together innocent.

In essence, the consultation proceeds in the following basis

2. Commission Decision of 13 Mar 2002 (the Decision) permits Member States to introduce an exclusive alternative to 1., being a tiered testing system.

3. The Scottish scallop industry favours the introduction of 2 and separately,

4. Is there a simpler bureaucracy to administer the procedure proposed by the Decision than that proposed by FSAS, in its consultation?

The cynic, and who can be other in this sorry matter, sees the thrust of the consultation as attempting to achieve an acceptance by the industry that there is no alternative, either exclusive or non-exclusive, to the introduction of a tiered testing system as described in the FSAS interpretation of the Decision. In addition, the accompanying enforcement rules proposed by FSAS, it believes, are unlikely to be bettered. Indeed, so confident is FSAS in its assessment that it found no fault with its proposed procedures during a modest trial in using a number of primary producers (none being fishermen nor subject to the vagaries nor hours of the fishing industry) in Orkney. Regrettably the industry has, in the main, allowed itself to be to be duped by FSAS that the questions posed by FSAS in its consultation are the only ones which require to be addressed.

In reality, however, the consultation is a great deal more complex than pretended by FSAS. The questions it might have posed are as follows: --

1. To what does the Directive apply so far as King Scallops are concerned?

2. What is the testing regime required by the Directive?

3. What would have been the position of FSAS had the Decision not been taken?

4. What is the status of the Decision vis-à-vis the Directive?

5. What is the meaning of the Decision?

6. Does the interpretation of FSAS accord with that meaning?

7. Does the draft legislation accord with that interpretation and that meaning?

8. Conclusions

9. In what direction should the Scottish Executive and FSAS now proceed.

It is argued that the failure of FSAS to construe the Decision correctly added to its long-term failure to understand the meaning of the Directive combined with the deficiencies in the draft legislation require, at a minimum, for the consultation to be withdrawn for major correction prior to re-consultation. However CFA goes further than that. Its position is that the Directive procedure, correctly applied to the Scottish Fishing industry, will, at one and the same time, allow that industry to cope with the ASP problem and provide the general public with an absolute assurance that its health, in relation to the consumption of scallops, is being properly safeguarded.

We turn now to the numbered questions: -

1. Application of the Directive

“The Directive lays down health conditions for the production and placing on the market of live bivalve molluscs which are intended for immediate human consumption or for a further processing before consumption.” The further processing is described as, “Whereas live bivalve molluscs obtained from harvesting areas may be rendered
safe by submitting them to a purification process...”. The reference to processing is therefore to a procedure which allows live bivalve molluscs to eliminate their ASP over a period while remaining live. It does not prohibit the placing on the market of dead bivalve molluscs from which the contaminated parts have been removed.

2. Directive Testing Regime

The regime, where relevant to natural scallop beds, required by the Directive is as follows: --

a) periodic monitoring of live bivalve mollusc production areas in order to check biotoxins in live bivalve molluscs.

b) sampling plans must be established for checking such possible presence at regular intervals or on a case-by-case basis if harvesting is irregular.

Where accumulations of toxins are suspected then intensive sampling must be instituted to check toxicity levels using the molluscs most susceptible to contamination from the area. If the toxicity is excessive then placing on the market of molluscs (i.e. live bivalve molluscs) from the area may not be authorised until new sampling has provided satisfactory toxicity results.

Quite separately, if the result of the sampling plan shows that the placing on the market of live bivalve molluscs may constitute a hazard to human health then the production area must be closed as regards molluscs concerned (i.e. live bivalve molluscs) until the situation has been restored.

What is the level at which toxicity may constitute a hazard to human health? The total ASP content in the edible part of molluscs (the entire body or any part edible separately) which is being placed on the market for immediate human consumption must not exceed 20 micrograms of domoic acid per gram (20 µg/g) using the HPLC method.

There is no evidence that, since the introduction of the anti ASP measures that any edible part of any scallop has been placed on the market in circumstances which would cause a hazard to human health nor, more importantly, is there any evidence that there has been a risk of that event occurring.

3. The FSAS Position Prior To The Decision

FSAS says that it believed that the Directive required the closure of production areas when scallop gonad exceeded 20 µg/g. It is invariably the case that the whole animal will return a higher reading than the gonad which in turn will provide a higher reading than the adductor muscle (white meat) alone. As an aside, if FSAS was right then, then why did it approach the Commission to permit tiered testing as the Directive does not prohibit the placing of edible (non-contaminated) parts of a scallop on the market.

FSAS now says that a Commission Working Group has advised that closure is required when a whole animal test exceeds 20 µg/g. Unfortunately FSAS has being quite unable to produce any evidence to show that the alleged view of the Commission was communicated to it and, more importantly, if communicated, is correct.

What is a reasonable construction of the Directive? We have already seen that its purpose is to prevent toxic live bivalve molluscs reaching the market. However the Directive concedes that the relevant toxicity level is not exceeded in respect of a relevant part of a mollusc measuring below 20 µg/g of domoic acid. Why should it do so? Quite simply because that mollusc will, be dead, have undergone removal of its contaminated parts and be eligible for end product testing. This is clearly provided for
in the Decision at Article 1 2 (d). That section also helpfully provides evidence to support this argument by using the words "contaminated part" to define those parts of a whole scallop which are not be edible. It is important to remember that while the Directive envisages that parts of a bivalve mollusc will be below the toxic level, it does not envisage a procedure wherein the contaminated, or inedible, parts are removed. If one is being charitable, the failure to understand this may be the basis of the FSAS misconstruction of the Directive.

It is interesting to note that FSAS has continued to administer a scheme, which does not result in a closed production area until the gonad exceeds 20 $\mu$g/g. It is perhaps the case that it appreciates that the Commission, let alone one of its Working Groups, is not an arbiter of the Law.

4. The Directive -- v -- the Decision

FSAS has consulted on the basis that the Scottish scallop industry can have only one ASP management scheme from the following alternatives:

1. The existing system.

2. A 20 $\mu$g/g whole animal test.

3. Tiered testing

FSAS believes that alternative 1 is no longer permitted by Law, which in effect means that it has never been permitted. It is hoped that it now accepts that that is not the case. Even if it were, is the industry bound to under the provisions of 2 or 3 but not both? What does the Decision say?
5. The Meaning of the Decision

“Article 1

1. By way of derogation from Point 7a of chapter V of the Annex to Directive 91/492/EEC Member States may authorise the harvesting of bivalve molluscs...with a concentration of domoic acid in the whole body exceeding 20mg/kg but lower than 250mg/kg...."

Please note the following: --

1. Point 7a deals with the level of toxin in live bivalve molluscs intended for immediate human consumption. The products of the Scottish scallop fishing Industry are not so intended.

2. The Decision derogates from the Directive. It does not abrogate it. It does not amend it. It therefore permits Member States to do something which is in addition to the Directive should Member States which to avail themselves of its provisions.

3. "Member States may authorise..." Member States are not required to authorise. Member States may ignore the Decision and in the view of CFA would be well advised to do so.

The Scottish Executive should not accept the advice of FSAS that, in Law, only one scheme of anti ASP measures is operable. In the view of CFA there are at least three. In practice the one that should be operated is the one that is the most permissive and therefore the least harmful to the scallop industry.

6. FSAS Interpretation of the Decision

Although it is the view of CFA that the introduction of the Decision procedure should be avoided in Scotland, it is useful to see how far the FSAS interpretation departs from its actual meaning. If FSAS interpretation of this very short document is seriously flawed then its credibility in other related matters must be called into question. The core of this consultation is to understand whether FSAS in implementing the Decision is doing so faithfully and, in doing so, would use "the lightest touch". While CFA believes that FSAS has correctly understood the requirements of Decision Annex 2 insofar as it relates to the testing regime, it has failed in every other respect.

Sampling

While considering that part of the Annex it is as well to identify a serious misinterpretation which, following explanations given at the CFA/FSAS consultation meeting, seem not to be innocent. Under the Directive procedure the implementation of a sampling plan is the duty of the competent authority to institute and administer. As the competent authority, FSAS pays for the obtaining of the relevant samples. It now says that it is not prepared to do so for the sampling plan required by the Decision. This is a clear breach of the Law. The purpose of the sampling plan is to ensure public health safety and any expenditure involved therein must be funded by the State.

The FSAS position is that a gatherer must volunteer, at his own expense, to obtain the 2 samples required to open a production area and that thereafter the weekly samples are provided by rather gratuitous voluntary effort. This is absurd. One of the main reasons elaborated by the Directive for placing the duty of administering the sampling plan on the competent authority is to eliminate malpractice. The proposal, at a stroke, removes the credibility and validity of any sampling plan. It also provides the best evidence we have that FSAS is determined to ensure that the ASP monitoring regime causes it the least economic and administrative involvement possible.
**Registration**

The FSAS plan requires the registration of a gatherer before the gatherer is allowed to fish in a partially opened production area. Registration requires to be with a relevant local authority with such registration being valid for a period of seven days only. There is no such requirement nor anything remotely like it in either the Directive or Decision. It will be noted that the cost and burden of registration and administration is being devolved from FSAS to local authorities and gatherers.

**Documentation-Tagging**

The FSAS plan requires the use of "uniquely numbered identity tags" to be used to seal scallop bags. There is no such requirement for anything remotely like it in the Directive or the Decision. The Decision requires merely that the scallops "must be transported in containers...sealed under the direction of the competent authority."

**Documentation-Traceability**

Point 6 of Chapter II of the Directive sets down the requirement for traceability documents. There is no such requirement for anything remotely like it in the consultation document or amending legislation.

Even if the FSAS interpretation of the Decision were correct, it has failed to deal with the following additional points: --

1. Speed and availability of testing.
2. The effect of weather on the regular testing requirements.
3. The availability of the competent authority to issue authorisation documents (24/7).
4. The dispatch and receipt of sealing tags.
5. Compensation for the destruction of processed product which fails the end product test.

**Draft legislation**

The draft legislation which the progenitor of the consultation document claims to have framed bears only a modest connection with the latter document and in turn with the Decision. For example: --

1. In Part 4 the statutory test required to keep open a production area (Decision Annex 2 part 3) is completely absent.
2. Part 4, section 9 refers to "prior to processing" which is not a concept contained in the Decision. The draft has completely confused the sampling requirements for production areas with the processing of the molluscs gathered from those areas. It also completely misunderstands that “processing” as described in the Directive is an entirely different activity from that described in the Decision Article 1 2 (d).
3. There is no enactment of the procedure set out in Decision Article 1 2 (d).

**Conclusions**

1. The Directive prohibits the placing on the market of toxic live bivalve molluscs.
2. The upper limit of 20 µg/g of domoic acid applies only to live bivalve molluscs intended for immediate human consumption. It does not apply to shucked scallops.
3. The tiered testing system contained in the Decision applies only to live bivalve molluscs intended for immediate human consumption. It does not apply to shucked scallops.

4. The only rule that applies to shucked scallops is that after removal of the contaminated parts, the adductor muscle and/or the gonad must not contain more than $20 \mu g/g$ of domoic acid.

5. The purpose of introducing a trigger level ($4.6 \mu g/g$ of domoic acid) is without justification if it were to apply to scallops that are eventually to be shucked with their contaminated parts removed. That procedure contained in the Decision should not be adopted in Scotland.

6. In any event the accompanying procedures proposed by FSAS are at best not required by EU legislation (registration and tagging) and at worst could be deemed unconstitutional (requiring gatherers to fund the major part of the expense of the sampling plan). Further the draft legislation is not yet in a state where its effect can be properly assessed.

7. The terms of the Directive continue to be valid and therefore should continue to apply but that in the terms set down in the Directive and not on the basis of the construction of them hitherto applied by FSAS.

9. **Future Procedure**

   1. The present consultation must be abandoned.

   2. A clear understanding of the meaning of both the Directive and Decision must be arrived at among the Scottish Executive, FSAS and industry.

   3. A satisfactory, clear, procedure must be agreed which given present scientific knowledge reduces the possibility of amnesic shellfish poisoning being transmitted to the public by the medium of scallops whether “processed” or not, to acceptable levels. It should not be conceded that such a procedure does not already exist.

   4. If appropriate, further discussion within the Standing Veterinary Committee to achieve purpose 3. should be embarked upon.
SUBMISSION FROM THE WESTERN ISLES FISHERMEN’S ASSOCIATION

Hector Stewart is based in Grimsay, North Uist and has been fishing for 25 years. He is a former Chairman of Western Isles Fishermen’s Association and is a current member of WIFA’s Executive Committee. He is part-owner of the 55 foot scalloper AQUARIA K 232, which was purchased in 1999, the vessel is currently valued at £300,000. Since July 2000 he is also a partner in Kallin Shellfish, a scallop processing company employing 15 people in Grimsay, North Uist. The submission is made on behalf of the Western Isles Fishermen’s Association, Barratlantic, Kallin Shellfish and Stornoway Shellfish.

BACKGROUND TO THE WESTERN ISLES SCALLOP FISHERY

The scallop industry has been developed gradually over the last 40 years and is now the second most important, after prawns, by value with annual landings to the 3 main processors being £2.7Million. Furthermore, the diving sector accounts for around 20 divers with their catches being sold to the live markets in the UK and Europe. There are up to 15 scallop vessels based in the Western Isles employing 40 fishermen, with a further 50 employed in the processing sector. The annual value is estimated to be in the region of £4 Million after taking into account staff wages, transportation, gear manufacturers, packaging and other relevant sectors. During the last 5 years there has been an investment of £1.5 Million made in purchasing and upgrading scallop dredgers, a further £1.5 Million investment has been made in the 3 scallop processing plants.

PROPOSED TECHNICAL CONSERVATION MEASURES

The Western Isles industry has been involved in the various consultations which have taken place over the last 4 years and welcome the proposed technical measures. However, there is some level of detail that must be considered before the final Statutory Instrument is drawn up. Firstly, account must be taken of vessels that fish with 2 foot dredges instead of 2 foot 6 inch dredges. The easiest method of enforcement should relate to a maximum bar length rather than the number of dredges. The bar length to be set at a length which could accommodate no more that 8 dredges at 2 foot 6 inches per side.

Action must be taken now to limit effort to a maximum bar length, otherwise this sector could be faced with introducing far more draconian measures at a later date, as has been the case in the white fish sector.
WEEKEND BAN

Our favoured position in relation to a weekend ban has always been that if such a ban was to be introduced to Ardnamurchan Point then some form of restriction should be introduced North of that area to prevent displacement of effort from South to North. We believe that a seasonal weekend ban from May to September is necessary North of Ardnamurchan Point to a line joining Butt of Lewis to Cape Wrath. Seasonal closures and weekend bans already exist in Clyde, Irish Sea and Isle of Man waters and some restriction is necessary in the Minches during the summer months to prevent displacement of effort from vessels which used to work in those areas. The vagaries of weather and short daylight hours during the winter months already curtails effort from October through to April.

The weekend ban has many benefits, it is easy to enforce, applies equally to all vessels, aids conservation as vessels that fish weekends do so during slack tides when catches are higher, will ensure grounds are given a genuine rest period. Recent improvements to road infrastructure and transportation links means fishermen have easy access to their homes at weekends wherever they fish.

The 3 processing plants in the Western Isles can all operate within a seasonal weekend ban in the scallop fishery, as they have plenty refrigeration capacity to store scallops over the weekend, for Monday processing. There is already a resistance amongst processing staff to work on Saturdays and Sundays, their preferred option being to work Monday to Friday.

PROPOSED TIERED TESTING REGIME

The industry has now recovered despite prolonged closures due to ASP in 1999 that saw Western Isles landings down some 40%. During the 2-year period in which the current shucking regime has been in operation, in excess of 12,000,000 scallops have been processed in the Western Isles and there has never been a single complaint or product recall.

We remain totally dissatisfied with the methodology adopted, the totally unjustified position reached on biochemistry undertaken on mussels and the clear lack of scientific evidence to justify such stringent controls on the scallop fishery.

The proposed tiered testing regime and its component parts of sampling and tagging will place a huge additional cost burden on industry, in terms of staff time, paperwork, all for the sake of reduced access to raw material and will decimate all the various sectors of the scallop industry. In the first instance it is morally wrong of the Food Standards Agency to shift the majority of costs of
implementation to industry, as regards processors supplying product for monitoring purposes and expecting vessels to steam long distances to Blocks which they are unable to fish commercially. Bad weather, holiday periods and seasonal closures will make it impossible for vessels to fish each scallop block on a weekly basis. Hence the Government should continue to pay for vessels to sample Blocks that are not open to commercial fishing activities.

There seems little justification in tagging bags, as with the proposed 4.6 trigger levels all Blocks will only have a white meat only fishery for 10 months of the year and there will be no traces of ASP in white meat. Industry is of the opinion that implementation as drawn up by the FSA is fundamentally flawed and will not work in a commercial fishing environment. Trials that have been undertaken only relate to small quantities of dive caught scallops.

As far as the processing sector is concerned there appears to be no market for white meat only. That market is already well supplied with cheaper and poorer quality product from Canada and Chile. The additional labour costs in removing and disposing of roe in an area where there is no incinerator will further increase the costs of complying with the proposal, to reflect transportation of disposal costs on the mainland.

Fishing vessels would suffer a weight loss of 20 –25% to reflect the loss of roe and this would make scallop vessels unviable. The only option left for vessels would be to diversify to other species, namely, prawns and that would cause further problems in relations to stocks and over-supply on the market, which would reduce prices and grossings of vessels in that fishery. Diversification costs would range from £10,000 - £60,000 depending on vessel and whether vessels would gear up to fish for brown crab.

My own vessel which has a Category C Licence with scallop entitlement would become valueless, as I am unable to fish for prawns. The only market for the vessel would be in England and with the resulting reduced numbers of people in a position to fish with the vessel, I would be fortunate to get 50% of its value. A similar situation will be reflected in many other parts of Scotland.

I believe that there is justification in continuing with the current shucking regime, until there is independent scientific evidence to prove that it poses a threat to human health. As an Island community we would be prepared to invest in end product testing equipment that would ensure that we would continue to be able to supply a fresh market rather than wait several days before getting results back from the mainland. There should be UK and FIFG funding available to processors to install end product testing equipment and that would further reduce any risk of scallops with high ASP readings reaching the market. We would further propose that there should be a ban on the sale of live scallops and that scallops should only be offered for further processing.
Further independent scientific research must be commissioned before the Statutory Instrument as proposed is introduced, otherwise, an industry which has been supplying a high quality product to a global market and long term sustainable employment to many coastal communities will be lost forever.

I would urge that commonsense will prevail and that the Scottish Parliament will make every effort to support the continuation of this industry.
THE SCOTTISH PARLIAMENT RURAL DEVELOPMENT COMMITTEE

ISSUES AFFECTING SCALLOP INDUSTRY

Written Submission from Hugh Allen, Secretary of Mallaig and North-West Fishermen’s Association.

MNWFA is one of the largest fishermen’s associations in Scotland, with a membership drawn from all sectors, ranging from a one-man creel boat up to large whitefish trawlers and everything in between.

Geographically, its membership comes from the whole of Scotland, including Orkney and the Western Isles.

Current membership includes approximately 20 scallop dredgers plus a number of other vessels with scallop entitlement, who may wish to exercise their licence seasonally or in the future, and we also represent some scallop divers, as well as members who have extended their scallop fishing interests into processing and retailing.

Although we do not speak for the aquaculture sector, we also have members who have diversified into shellfish farming in addition to fishing. Our members regularly exploit all scallop grounds in the North Sea and on the West Coast as far south as the Irish boundary.

Therefore, all matters affecting the scallop industry are of paramount concern and importance to our Association.

Until the advent of restrictions generated by the effects of algal toxin blooms, the commercial scallop industry operated for 50 years virtually free of regulatory control, with the exception of minimum landing sizes and more recently, a dedicated licence regime. It was also the only major sector to have experienced no difficulties, and to have operated profitably, and even the very latest stock assessment paints a healthy picture.

However, the dramatic events of the last three years or so, and the stringent health regulations that we now have in prospect, coupled with proposed technical conservation measures, means that the industry is
facing an extremely uncertain future, and in the worst instance, possibly one of terminal decline, but for no justifiable reason.

**Amnesic Shellfish Poisoning (ASP)**

Members of the Committee have already heard evidence on the subject of Amnesic Shellfish Poisoning (ASP) in the past and will be familiar with the manner in which the industry has suffered from large-scale closures, particularly on the West Coast, so I will not rehearse the events of recent history.

Instead, I should like to address what lies ahead, and suggest possible ways forward both from the ASP dilemma and with technical conservation measures. The Food Standards Agency (FSA) has now closed its consultation on tiered analysis or whole body testing. Both of these are stark options and if implemented, will render the industry unsustainable.

The mechanics of the tiered analysis system as proposed, takes little account of the modus operandi of the fishermen, and would be so complex and expensive as to be unworkable.

Fishing would only be permitted in a box once two samples reading less that 250μg/g had been taken between one and seven days apart. Thereafter if a box is not sampled weekly, it will automatically close, until re-sampled. Sampling would be undertaken by fishermen at their own expense.

For some areas in the North Sea, this could mean a total steaming distance of 500 miles before a dredge is shot – 100 miles out to collect the first sample and 100 miles back to shore again to land it, the same for the second sample, and then 100 miles back to start fishing if the samples are clear. This problem could be mitigated by increasing the size of the production areas for sampling purposes, but then if the readings were high, a larger area would be closed.

At the start of a trip the skipper will have to obtain from the processor, local authority or fishery office sufficient tags for the number of bags he expects to catch from each open box that he intends to fish, and return any unused tags to an authorised collection point. Not only does this mean leaving with possibly 1,000 tags, but also it takes no account of the fact that fishermen often make their landfall outside office hours, and sometimes at piers that are a mile from the nearest road, let alone a recognised authority.

In terms of harvesting, tiered analysis would only permit the sale of the white meat and the roe if the reading in the roe is below 4.6μg/g.

In practice this will mean that for most of the year and in from most production areas, it would only be possible to sell the white meat.

However, no market exists for “white meat only” from *pecten maximus*, the Scottish scallop.

The “white meat only” market is for a different type of scallop, and is anyway over subscribed by American and Canadian imports.

Supposing a white meat only market did exist, the following figures give an indication of the cost to the industry incurred through supplying such a market. Calculations are based on a fairly normal sized scallop processing factory involving 5-6 fishing boats. This would typically be a processing and marketing unit, producing 1,500 lbs of finished product scallop meat per day, representing an annual turnover in excess of £2 million.
- Reduced sale weight due to roe removal... 23.5%
- Reduced sales expressed as a value... £470,000
- Additional labour costs for removal of roe... 8p/lb or £30,000 p.a.
- Additional waste disposal costs... £18,000 p.a.
- Additional testing costs... £58,000 p.a.
- Total additional costs incurred by roe removal... £106,000 p.a.
- Total financial burden on factory due to roe removal... £576,000 p.a.

Cost to Vessel - There is insufficient margin for any increase in operating costs to be passed from the processor to the buyer. This means that a pro rata reduction would be applied to the purchase price of the raw material.

- On an average price of £4.40 per lb paid to the fishing boats, there would be an immediate reduction of 23.5% for loss of roe weight... £3.37 per lb.
- Further reductions to accommodate increased operating costs... 32.5p/lb
- Resulting average price to vessel... £3.05 per lb or reduction of 30%

Cost to Vessel and Crews (figures taken from actual boats in 2001)

<table>
<thead>
<tr>
<th>ROE ON PRODUCT</th>
<th>ROE REMOVED FROM PRODUCT</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>Less 30%</td>
</tr>
<tr>
<td>Gross Sales</td>
<td>£300,010.00</td>
</tr>
<tr>
<td>(£300,010.00)</td>
<td>(£210,007.00)</td>
</tr>
<tr>
<td>(based on a vessel towing 8 dredges per side with 4 crew)</td>
<td>(based on a vessel towing 8 dredges per side with 4 crew)</td>
</tr>
<tr>
<td>£200,500.00</td>
<td>£140,350.00</td>
</tr>
<tr>
<td>(£200,500.00)</td>
<td>(£140,350.00)</td>
</tr>
<tr>
<td>(based on a vessel towing 6 dredges per side with 3 crew)</td>
<td>(based on a vessel towing 6 dredges per side with 3 crew)</td>
</tr>
<tr>
<td>Gross Earnings</td>
<td>£21,000.00 per crew man</td>
</tr>
<tr>
<td>(£21,000.00 per crew man)</td>
<td>(£14,700.00 per crew man)</td>
</tr>
<tr>
<td>(based on a vessel towing 8 dredges per side with 4 crew)</td>
<td>(based on a vessel towing 8 dredges per side with 4 crew)</td>
</tr>
<tr>
<td>£18,000.00 per crew man</td>
<td>£12,600.00 per crew man</td>
</tr>
<tr>
<td>(£18,000.00 per crew man)</td>
<td>(£12,600.00 per crew man)</td>
</tr>
<tr>
<td>(based on a vessel towing 6 dredges per side with 3 crew)</td>
<td>(based on a vessel towing 6 dredges per side with 3 crew)</td>
</tr>
</tbody>
</table>

The alternative whole body testing at 20ug/g, would simply close most of the boxes for most of the time, and thereby shut down the fishery.

All of this arises from a product that has yet to record a single instance of ill health to a human being throughout its entire history of commercial harvesting. It also stems from a European Directive that is not founded in science, but in pragmatism. The relevant biochemistry was in fact conducted on mussels, and then a series of mathematical projections were undertaken, the internet trawled for case studies, assumptions made, and a comfort factor built in, to arrive at the 4.6ug/g trigger level. One of the most inaccurate assumptions was to use a portion size as being 1 dozen scallops.
Furthermore, work on shellfish monitoring has commanded far greater use of the FSAS budget to date than anything else, including CJD, salmonella, e-coli etc.

In other words, the more money that is spent on an issue that has never produced a health problem, the less there is to spend on known killers.

Clearly it is of vital importance both for the safety of the consumer and the producer, that the relevant biochemistry is undertaken as a priority to assess the effects of domoic acid on scallops.

Costings to complete such research are currently in preparation. Until the research has been completed, the status quo, which now has a three year track record of working successfully, should be maintained.

**Technical Conservation Measures**

Although we were party to the original drafting of the technical conservation measures, this process took place before anyone was aware of the dramatic curtailment of the scallop sector's activities that would be experienced as a result of ASP. Events have caused us to alter our position to the extent that we are now totally opposed to some of the measures contained within the draft Statutory Instrument (SI) for the following reasons:

1. The most recent stock assessment presents a healthy picture.
2. ASP has made its own contribution to conservation through closed areas, and for the foreseeable future is likely to remain a feature of the industry.
3. There is a negative conservation effect to a geographically defined weekend ban because it will cause major displacement problems.
4. There is no conservation benefit in terms of reduced effort to a weekend ban, because those who do not already work a five-day week, work two ten day trips per month, which comes to the same number of days. Indeed they spend less time fishing because they have to steam ashore to make at least three landings.
5. A weekend ban disrupts supplies to processors, who depend upon a continuity of supply, and who need all the co-operation they can get from the catchers in order to meet the demands of an increasingly competitive market.
6. A weekend ban reduces the quality shore time for crew members with their families and all the crews used to working 10-day trips with 4-5 consecutive days ashore have expressed profound opposition to the prospect of working with a weekend ban.
7. The proposed reduction in the number of dredges within 6 miles will affect the whole of the West Coast of Scotland because all scallop grounds are within 6 miles, and will discriminate against those who have legitimately invested in the industry with modern safe boats, generating increased employment.
8. The Maritime Coastguard Agency will not allow two sets of scallop gear to be carried and changed at sea for stability and safety reasons. Vessels moving from one area to another will therefore have to return to port first to change their gear.
9. Larger boats working ten dredges aside fish the outer regions of the six-mile limit. If they are restricted to eight dredges aside, they will be forced to work closer inshore, thereby increasing the effort within the three-mile limit.
10. There are only six boats that work the West Coast which would be thus affected, so while the conservation gain through the removal of 24 2’6” dredges from the global effort, will be minimal, the penalty to the individual operators and loss of revenue to the Scottish rural economy will be substantial.
Losses incurred through removal of two dredges per side

<table>
<thead>
<tr>
<th>Vessel based on 10 aside</th>
<th>Vessel based on 8 aside</th>
</tr>
</thead>
<tbody>
<tr>
<td>£40,000.00 (gross monthly income)</td>
<td>£25,000.00 (gross monthly income)</td>
</tr>
<tr>
<td>(working 2, 10 day trips per month with 5 crew)</td>
<td>(working 2, 10 day trips per month with 4 crew)</td>
</tr>
<tr>
<td>£14,000.00 (expenses for the month)</td>
<td>£14,000.00 (expenses for the month)</td>
</tr>
<tr>
<td>After gear share and boat’s owner share –</td>
<td>After gear share and boat’s owner share –</td>
</tr>
<tr>
<td>A crew member would receive between £1,700.00 and £1,800.00 per month.</td>
<td>A crew member would receive around £1,000.00 per month.</td>
</tr>
</tbody>
</table>

In total, annual gross earnings would be reduced by £180,000 per vessel, which taken over 6 vessels means a loss of income to the rural economy of £1,080,000 annually, which is hardly in proportion to the removal of 24 dredges.

Vessel operators will also be faced with a capital expenditure of £9,000 to alter the gear and the boat to fish with a reduced number of dredges.

Additionally, they would have to lose 1 crewman per vessel, which not only creates job losses, but also invalidates their Risk Assessment, which has been conducted on the basis of 5 crew per vessel, not 4, as would be the case. There are serious safety implications here.

It is acknowledged that there is division in the industry regarding the technical conservation measures, with a small minority supporting the proposed SI, (these being those fishermen who will not be affected either by the weekend ban or the dredge reduction) but the vast majority are totally opposed.

We would suggest that, if and when further conservation measures become necessary for the scallop industry, there are better and more equitable ways of achieving them, either through more robust use of the scallop licence (whose numbers have reduced anyway through decommissioning) or sectoral effort limitation. We would also be prepared to consider a compromise on the proposed SI which would limit dredgers to 10 dredges aside on the West Coast, while other measures remain the same, **provided that the weekend ban is abandoned.**

End.
SUBMISSION TO THE RURAL DEVELOPMENT COMMITTEE FROM THE FOOD STANDARDS AGENCY, 3 OCTOBER 2002

ISSUES AFFECTING THE SCALLOP INDUSTRY:
Proposals for a Tiered Approach to the Harvesting and Marketing of King Scallops from Waters Affected by Amnesic Shellfish Poisoning (ASP)

Purpose

1. To advise the Committee of recent developments regarding the management of Amnesic Shellfish Poisoning (ASP) outbreaks in Scotland.

Timing

2. Immediate. This submission is intended to provide background information to the Rural Development Committee in advance of their meeting on 8 October.

Background

3. Policy responsibility for the monitoring and sampling programme for algal toxins passed to the Food Standards Agency (FSA) from the Scottish Executive on its launch in April 2000. Pre-dating this, an EU report indicated that enforcement regimes, equivalent to that in place in Scotland, would not adequately protect public health. This was followed in summer 2000 by the European Commission asking the Community National Reference Laboratories in Algal Toxins to review implementation of Council Directives on shellfish hygiene in Member States (MS). The review concluded that implementation methods varied, but also that, in the case of scallops, it may be possible to operate a tiered system. However, in light of the existent data on inter-animal variability, further assessment was required.

4. A report was issued to MS at a meeting of the Standing Veterinary Committee (SVC) on 23 May 2000 and they were asked to submit comments. The UK submitted a response on 19 July 2000, emphasising the need for sufficient enforcement controls to support the tiered system and requesting an expert working group meeting be convened to progress consideration of a tiered regime. At the September SVC, the UK delegation requested an update from the Commission. They reported that no other MS had responded. The then Minister for Health and Community Care also met with Commissioner Byrne on 18 September to discuss this issue.

5. At the same SVC meeting, the UK held bilateral discussions with the Commission regarding the legality of a tiered system within the current Directive framework. Commission officials advised that the Directive did not preclude a tiered system, but
that a formal Commission Decision would be required to provide a legal base. They also indicated that further scientific assessment would be required.

6. The scientific assessment of the proposed tiered approach was conducted by experts on behalf of the Commission and concluded in April 2001. It proposed that the introduction of a tiered system was feasible on a scientific basis, but with certain very precautionary conditions recommended. The conditions were finalised following strong UK negotiating to achieve a more proportionate approach. A number of UK recommendations were accepted, however, there was no move on the use of trigger levels to be used in conjunction with strict requirement for end testing of the processed product. The conditions finally inserted into Commission Decision 2002/226/EC are outlined in the attached industry guide. Importantly, the formal Commission Decision has recognised that the science surrounding ASP will develop over time and that it will be necessary to revisit issues such as the trigger levels. It should also be emphasised that the Decision is considered to be a relaxation of the governing Directive, and that there was a large minority view that was concerned about adopting this approach.

7. In light of the absence of an expert toxicological opinion from the European Commission, the FSA sought the view of the UK Committee on Toxicity. They concluded there was insufficient data to comment on the appropriateness or otherwise of the current ASP action level, but that in the absence of any known public health problems associated with scallops, it appeared to be pragmatic. They did not, therefore, oppose the introduction of a tiered system.

8. FSA Scotland consulted stakeholders in December 2001 on the question of whether or not operating a tiered approach should be pursued in Scotland or whether they accepted the alternative of closure of fishing grounds based on testing whole scallops. In light of views expressed by the Commission, it was made clear that the regime in place could not be accepted in the longer term. Enforcement bodies were rather circumspect in their responses, preferring to wait for later detailed consultation. Industry, however, indicated a preference for the tiered approach, albeit with strong reservations about the detailed conditions and a preference for continuing a regime which had already been criticised.

9. Based on this response, FSA Scotland prepared a further consultation package consisting a draft SSI, a draft Regulatory Impact Assessment, an Industry Guide and a Guide to Enforcement Officers. These were designed to provide the statutory basis for the introduction of a tiered approach, as well as a practical guide to the enforcement regime to support it. The Scottish consultation issued on 27 June and closed on 27 September. Detailed responses are currently being considered, but initial broad brush indications are that industry is very hostile to the detail of the regime. Whilst they support the principle of a tiered approach, their objections focus around the use of trigger levels in particular. Enforcement bodies have also indicated that some additional resources may be required. Once the FSA has concluded its review of the responses, it will prepare its recommendations for consideration by Ministers. Any new regime is unlikely to be introduced before March 2003.
Recommendation

10. The Committee is invited to note the status of work in progress regarding:


- The issue on 27 June 2002 of a Scottish consultation document seeking views on the proposed statutory framework and supporting enforcement regime (consultation period ended 27 September).

11. The Committee is further invited to note the attached industry guide, which provides a shorthand guide to the operation of the proposed tiered approach.

Martin Reid
Food Standards Agency Scotland
Tel. 01224 285134
3 October 2002

A BRIEF GUIDE TO THE PROPOSED TIERED SYSTEM FOR TESTING AMNESIC SHELLFISH POISONING (ASP) LEVELS IN KING SCALLOPS

Introduction

The proposals from the European Commission which provide for the introduction of a tiered approach to the harvesting and processing of king scallops from waters affected by Amnesic Shellfish Poisoning (ASP) are complex. This advice note is intended to provide a simple guide to the key points, main conditions and their effect.

Key Points

- There will be no change in the action level in respect of end product testing. End product testing will, however, have to be carried out on every ‘batch’ of product. Producers will continue to be required to ensure that the products they place on the market do not exceed the existing action level of 20 micrograms (ug/g) of Domoic Acid per gram of flesh (not to be confused with the new trigger level).

- The new trigger level (set at 4.6 micrograms) applies only to official monitoring samples, and will be used to establish the processing conditions which will apply to king scallops from different production areas. The scientific justification
for the use of trigger levels is that individual scallops from the same location may vary considerably in their toxicity. Therefore, by applying a trigger level, the risk of anyone consuming scallops products with high levels of toxin, i.e. above 20 micrograms, due to variability is significantly reduced. This new control measure was also felt necessary because the tiered system allows for the harvesting of animals with generally much higher toxin levels than is currently permitted.

- A new upper limit will operate which will require production areas to be closed if official monitoring indicates toxin levels greater than 250 micrograms per gram in the whole animal. This was proposed to help control the risk associated with possible cross contamination between the subsequent parts of the scallop which may be consumed under the tiered regime.

**Summary of Main Conditions**

**End Product Testing**

Every batch of scallop products processed under this regime must be end product tested by the processor. If the test result indicates toxin levels in excess of 20 micrograms, then the batch in question must be destroyed.

**Official Sampling and Monitoring**

- If ASP levels in the whole animal are below 20 micrograms of Domoic Acid per gram of flesh (the action level) then there will be no restrictions on fishing activity.

- If ASP levels in the whole animal are between 20-250 micrograms of Domoic Acid per gram of flesh, the following conditions will apply:
  - Marketing of whole animals is prohibited;
  - If the toxin level in both the roe and the white meat is below 4.6 micrograms, then both can be marketed;
  - If the level of toxin in the roe is 4.6 micrograms or above, but the white meat is below then only the white meat can be marketed;
  - If the toxin level in both the roe and the white meat is 4.6 micrograms or above, then no harvesting is permitted, i.e. the affected production area will effectively be closed.

- If ASP levels in the whole animal exceed 250 micrograms, then the affected production area will be closed.
To: Interested Organisations

April 2001

SCALLOP TECHNICAL CONSERVATION

LIMITED AREA WEEKEND BAN
LIMITATIONS ON FRENCH DREDGES
LIMITS ON NUMBER OF DREDGES AND TOW BAR LENGTH
LIMITS TO NUMBERS OF TEETH AND BELLY RINGS
MINIMUM LANDING SIZE
IRISH SEA CLOSED SEASONS

1. In the run up to the introduction of scallop licensing, fishermen asked that appropriate technical conservation measures be brought in to help protect the scallop fishery. Consequently, Fisheries Managers, scientists and enforcement experts have worked with the industry on this issue in the Fisheries Conservation Group. A report was produced by the Group in March 1999, containing agreed recommendations for technical conservation measures to protect scallop stocks. A copy is attached at Annex A. The Fisheries Conservation Group was keen that consultation with the industry should include a draft of a Statutory Instrument which would deliver the ideas in their report. The Scottish Executive has now produced this initial draft legislation, which is attached at Annex B. The final Scottish Order will only cover
the Scottish zone of British fishery limits as well as all Scottish boats wherever they may be. To cover the rest of the UK the Ministry of Agriculture, Fisheries and Food (MAFF), the Department of Agriculture and Rural Development (DARD) and the National Assembly of Wales Agriculture Department (NAWAD) will promote new legislation. We will also be working with the Isle of Man authorities to ensure that consistent measures apply in the Irish Sea.

2. This letter explains the key elements included in the draft legislation and seeks your comments on the proposals. Each proposal is discussed according to the sequence it appears in the draft Order.

LIMITED AREA WEEKEND BAN (Articles 2 and 3 of the draft Order and paragraphs 2 and 3 of the Conservation Group paper)

3. In its report, the Scallop Group was not able to unanimously endorse a weekend ban. However, during October 1999, the Scottish Executive consulted UK interested parties on a later proposal from the Clyde Fishermen’s Association for a weekend ban. The balance of responses to that consultation was in favour of introducing some form of weekend ban, but not to the extent envisaged by the CFA. A weekend ban already exists in Northern Ireland waters.

4. The area covered by the proposed weekend ban set out in the draft Order fills in a gap between the existing weekend bans in the Clyde and Northern Ireland adjacent waters, and extends this to a point north of the Isle of Mull (Ardnamurchan point). A chartlet, illustrating the area covered by the proposed weekend ban is attached at Annex C.

5. Some members of the Fisheries Conservation Group have queried whether the northern boundary of the weekend ban area should extend as far as Ardnamurchan point. They have submitted an alternative proposal as follows: A year round weekend ban based on the area illustrated in the map in Annex C, but only as far as 56ºNorth. In addition, they have proposed a seasonal ban from May to September inclusive in the area north from 56ºNorth to a line from the Butt of Lewis to Cape
Wrath (from 58º30’N : 6º15’W to 58º40’N : 5º00’W), i.e. a 5 month full seasonal closure in the Minches.

6. **We seek your comments on the idea of a weekend ban, and the two proposals.**

**DIVING PLATE DREDGES (FRENCH DREDGES) (Articles 2 and 4 of the draft Order and paragraphs 13 and 14 of the Conservation Group paper)**

7. The Scallop Group noted some concern about the use of French dredges because of their potential to take flat fish in quantity notably in the English Channel. French dredges are already banned in waters adjacent to Northern Ireland. Subsequently, following a consultation exercise, French dredges have been banned from 1 April by licence condition (specifying the type of dredge that may be used) from ICES Areas VIId, VIIe, VIIf and VIIh.

8. Following the Group’s recommendations it is now proposed that French dredges will also be banned within all UK inshore waters i.e 0-6 miles. It is proposed that they will be permitted to operate outside the 6 mile zone, other than in ICES Areas VIId, VIIe, VIIf and VIIh but will be limited to 6 dredges per side, with an aggregate length of tow bars of **22 metres**. The figure for the length of the tow bar is derived from the fact that French dredges are typically 1·83 metres (=6 feet) wide. 6 times 1·83 metres is a shade under 11 metres, giving 22 metres for the two sides together.

9. Alternatively, French dredges could be subject to limits equivalent to those for other scallop dredges as set out in paragraph 11 below. That is to say, between 6 and 12 miles, French dredges will be limited to 4 dredges per side, with an aggregate length of tow bars of **15·3 metres**; and outside 12 miles, French dredges will be limited to 6 dredges per side, with an aggregate length of tow bars of **22 metres**.

10. The proposals covering tooth bar spacing and belly rings would also apply to French dredges.
LIMIT ON NUMBER AND SIZE OF OTHER SCALLOP DREDGES (Article 5 of the draft Order and paragraphs 7 - 10 of the Conservation Group's paper)

11. The draft Order proposes a series of zoned restrictions as follows:

- Limit the number of dredges to 8 per side within 6 miles, with limit on the aggregate tow bar length of 12.2 metres (= 40 feet). Following the example set out above, this tow bar length is set for dredges of 76.5 centimetres (= 2 feet 6 inches) wide;

- Limit the number of dredges to 10 per side between 6 and 12 miles with an aggregate limit on the tow bar length of 15.3 metres (= 50 feet); and

- Limit the number of dredges to 14 per side outside 12 miles with an aggregate limit on the tow bar length of 22 metres (= 70 feet).

12. We seek your comments on the restrictions proposed for scallop dredges and for French dredges. It is not proposed that there should be a phased reduction for vessels which currently have more than 14 dredges per side.

MINIMUM TOOTH SPACING (Article 6(1) of the Draft Order and paragraph 15 of the report)

13. To ensure a minimum tooth spacing the draft Order specifies limits on the number of teeth per toothbar. It is proposed that teeth must be no more than 12 millimetres wide and be evenly spread across the dredge toothbar. In order to take account of the fact that dredges can be of different widths, and to set a proportionate number for each width, the draft Order states that there should be a maximum of one tooth every 8.5 centimetres. This does not mean that the spacing between teeth needs to be measured. Instead, the whole tooth bar is to be measured, and the 8.5 centimetre limit used to calculate the maximum permissible number of evenly spaced teeth. Therefore for a toothbar of 76.5 centimetres (= 2 feet 6 inches) wide, the number of
teeth may be no more than \(76.5 \div 8.5 = 9\). Similarly, for a tooth bar of 61 centimetres 
( = 2 feet ) wide, the number of teeth may be no more than \(61 \div 8.5 = 7\).

**BELLY RINGS (Article 6(2) of the draft Order and paragraphs 11-12 of the report)**

14. We intend that scallop dredge belly rings should have a clear opening of not 
less than 75mm internal diameter. We recognise that rings wear and pull out of true. To 
achieve the one and recognise the other, the draft Order specifies the maximum 
number of rings which may be used on the belly. Following the example used to 
decide the number of teeth, for a toothbar length of 76.5 centimetres, the number of 
rings physically attached and spread evenly across the dredge would be 8, with an 
allowance for one ring hanging down each side i.e. a total of 10 rings parallel to the 
bar. A narrower dredge than one of 75.5 centimetres is allowed proportionately fewer 
rings. In addition, there should also be uniform construction throughout the belly and 
throughout the back. The attached draft Scottish Order shows how all this would be 
incorporated into legislation.

15. Please be aware that some of the industry working the English Channel have 
recently suggested the use of rings with a minimum internal diameter of 80-85mm. 
This idea will be trialled at sea and the results of the work taken into account as part 
of the results of this consultation.

16. The draft Order also prohibits the use of any device liable to obstruct or 
diminish the dimensions of the rings (so called ‘blinders’).

17. **We seek your comments on the restrictions proposed for belly rings and teeth.**

**SCALLOP DREDGE NET MESH SIZE (Paragraph 17 of the report)**

18. The Report recommended a minimum mesh size for scallop dredge nets of 100 
millimetres. This point has not been included in the draft Order as it appears not to be
in fishermen’s interest to have too small a mesh size, because the dredge will fill up with stones and other detritus.

19. **We would welcome views on the appropriateness of this conclusion.**

**BY-CATCH RESTRICTIONS (Article 2(3) and paragraphs 18 - 19 of the report)**

20. A maximum by-catch of 5% of the total weight for non bivalve marine organisms when dredging for scallops is included in the European technical conservation regulation (EC No 850/98). We have proposed no additional by-catch restrictions for King scallops.

21. The situation is different, however, when considering Queen scallop (Queenie) fisheries, where King scallop by-catch may be essential to make the fishery viable. The draft Order therefore indicates that the minimum percentage of Queen scallops retained on board must be 70% (thus allowing a 30% by-catch of King scallops and other marine organisms). Vessels over 10 metres would also be required to hold a scallop licence. If a vessel has more than 30% King scallops on board, it would be deemed to be targeting King scallops and therefore the gear being used must meet the requirements for King scallop gear.

22. Since the publication of the Report, it has been suggested to the Scottish Executive that this split of 70:30 allows for too high a percentage of King scallops to be caught by Queen scallop dredges. An alternative split of 90:10 has been proposed.

23. Existing UK national rules already define Queen scallop fishing as retaining 80% queen scallops.

24. **We would welcome your views on the appropriate percentage of King scallops that should be allowed to be caught by Queen scallop dredges, which use smaller belly rings and have more teeth per toothbar than King scallop dredges.**
ALTERNATIVE PROVISIONS – EFFORT LIMITATION

25. Recently, the Scottish Executive has received some representations that the above proposals may not be the most effective means to conserve scallop stocks, with the dredge number limitations being highlighted as being potentially controversial. Some alternative suggestions made are set out below:

NO TAKE ZONES

Specified areas could be closed for fixed periods of time, as a means of ensuring sustainability where heavy effort is experienced and to allow stocks to recover. These closed areas could be rotated, so that effort could be equalised, and spread more evenly.

DAYS AT SEA

Days at sea could be an alternative to the weekend ban proposals.

26. We welcome your comments on these alternative proposals, and on all the proposals set out in the draft Order. What is clear is that the status quo is not an option. Scallop stocks have been facing increased and heavy effort for some time now, and action needs to be taken in the best interests of conservation.

RATIONALISATION OF EXISTING UK LAW ON MINIMUM LANDING SIZE (Paragraph 16 of the report)

27. SI 1984 No. 1522 sets a minimum landing size of 110mm for King scallops in the area "to the west coast of Great Britain between the southern border of Wales and England and the most westerly point of 55°00' north latitude on the coast of Scotland". In shorthand this provision required the 110mm landing size in ICES VIIa and the northern parts of ICES VIIg and VIIf. However, since 1 January 2000 EC landing size rules have required the 110mm landing size in ICES Area VIIa (Irish Sea) north of 52°30'. This reflects the fact that 100mm size scallops are found off Kilmore Quay.
in south east Ireland. The Fisheries Departments intend that the existing UK Statutory Instrument should be revoked and that as a consequence the landing size is set only in the EC Technical Conservation Regulation 850/98.

28. **We would welcome comments on this suggestion.**

**IRISH SEA CLOSED SEASONS FOR SCALLOPS**

29. SI 1984 No. 1523 as varied by SI 1986 No. 988 creates two closed seasons for scallop fishing. Between 1 June and 31 October in any year fishing for scallops is prohibited in the area of sea bounded:

   *in the north* by 55°00' north latitude from the eastern coast of Northern Ireland to the most westerly point of the coast of Scotland;

   *in the east* by the coasts of Scotland, England and Wales to the most southerly point on the coast of Wales at 5°00'W longitude; thence by 5°00'W longitude;

   *in the south* by 51°30' north latitude;

   *in the west* by the extent of British fishery limits and the coast of Northern Ireland."

30. During the period 1 June to 30 June in each year fishing for scallops is prohibited within that part of the area described above "which lies north of a line running due west from the most westerly point on the coast of Wales at 52°48'N latitude."

31. The Fisheries Departments agree with the Conservation Group that these two closed seasons should be maintained. However, we propose that the western most limit of the closed area should cease to be the median line between British Fishery Limits and Irish Fishery Limits and should instead extend to the coast of the Republic of Ireland.
32. We would welcome your comments on this suggestion.

33. The draft Order will, of course, need to be changed to make these alterations.

**Review of the operation of restrictive licensing**

34. Restrictive licensing for scallops took effect in April 1999 and was designed to cap the number of over 10 metre vessels entitled to dredge for scallops. The measure reflected growing concern that the over-exploitation of the fishery could lead to its decline and a significant loss of income to fishermen. Scientific advice had indicated that effort and mortality rates were rising and that in a number of areas these were at the highest levels ever recorded. In confirming the introduction of restrictive licensing in December 1998 Ministers advised that the arrangements would be reviewed once they had been in operation for 2 years. The review would take account of the progress towards the development of more precisely targeted conservation measures.

35. Some 454 UK vessels over 10 metres are currently entitled to dredge for scallops. Authorisation was granted in all cases where a licence or licence entitlement originated from a vessel which had caught more than 1 tonne of scallops in any calendar year between 1 January 1994 and 31 May 1998 using mechanical dredging gear. Provision was also made for pipeline cases. Restrictive licensing has not been extended to vessels under 10 metres although this was considered as part of a separate consultative exercise on the management of the under 10 metre fleet.

36. Taking the United Kingdom as a whole there was strong support for the introduction of restrictive licensing. Nonetheless some fishermen, notably from the South West and English Channel have expressed concern that restrictive licensing has further reduced the scope for diversification to compensate for diminishing fishing opportunities. Conversely other fishermen have argued that the current arrangements are insufficiently restrictive and that the permission to fish for scallops should be removed from vessels that have not been active in the fishery over the last 2 years.
37. From a scientific perspective there has not yet been a discernible change in the levels of exploitation although the introduction of restrictive licensing for over 10 metre vessels and other factors have arrested further increases in the effort. At this point in time it is considered too early to reach an informed view as to whether the introduction of the technical measures proposed above would facilitate a more liberal approach to the licensing of scallop activity. Moreover, in view of the significant reduction in quotas for certain whitefish stocks over the last 2 years, restrictive licensing is a safeguard against the displacement of effort into scallop fisheries.

38. We therefore propose that the restrictive licensing for scallops should remain in place for the time being and that the continuing need for such licensing be re-assessed in 3 years time once there had been an opportunity to gauge the impact of any technical measures that are put in place to conserve scallop stocks.”

39. We are open to ideas on the issue of scallop licensing. As indicated above, one suggestion that has already been put forward by certain sectors of the industry is that vessels outwith the shellfish sectors of scallop dredging and nephrop trawling, which currently hold a scallop license entitlement and did not use it to fish for scallops during the 2 calendar years 1999 and 2000 would have to forfeit their licence, which would be lost in perpetuity. We welcome your views on this alternative suggestion put forward by some in the industry.

AVAILABILITY OF RESPONSES TO THIS CONSULTATION

40. All responses to this consultation will be shared between Fisheries Departments. There is therefore no need to copy your responses to the other Fisheries Departments, as they will automatically see all responses to this paper.

41. Copies of comments received will be made publicly available at the end of the consultation period. They will be available from the Scottish Executive Library. The library will supply copies of responses on request (tel: 0131 244 4552). We will
assume that you have no objection to your response being made publicly available unless you clearly indicate with your comments that you wish all or part of your reply to be excluded from this arrangement.

**REGULATORY IMPACT ASSESSMENT**

42. In considering any proposals for new legislation the Government places great importance on giving due weight to businesses’ perception of the proposals’ likely impact on their costs. To measure that impact a ‘Regulatory Impact Assessment’ (RIA) is produced for all such proposals and is made available on request. Therefore, in giving your views on the recommendations described in this document it would be helpful if you could identify and quantify any additional direct or indirect costs that would be likely to arise for your sector of business as a result of the changes to the existing rules proposed in this letter.

43. Please would you address your replies to Siân Ledger, SERAD, Sea Fisheries Division, Room 518, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.

44. **Responses to this consultation document should reach Siân Ledger no later than 20 July 2001.**

**SERAD**

Sea Fisheries Division

**FISHERIES DEPARTMENTS**

**APRIL 2001**
FISHERIES CONSERVATION GROUP:  
REPORT OF THE SCALLOP SUB-GROUP

Introduction

1. At its meeting on 22 June (1998) the Fisheries Conservation Group agreed to set up a Scallop Sub-Group to consider what technical conservation measures might be introduced for UK registered vessels prosecuting the scallop fisheries. The Group has met twice. This paper sets out the Group’s proposals.

Weekend Bans

2. The Group had a very full discussion on the question of weekend bans. These were strongly supported by the Clyde Fishermen’s Association. Clyde fishermen already operate a voluntary weekend ban to the West of Kintyre, but vessels from outside the area often ignored this. While Orkney interests would not object to weekend bans in the summer, the majority of Group members had serious concerns about the proposal. There was support for certain aspects of the proposal from some members of the group but mainly for smaller areas of closure and for seasonal bans. Since a voluntary ban already operated locally, the only practical effect of formalising the ban would be to prohibit vessels which come in from further afield to fish in that area. This was thought to be discriminatory. There was also concern about vessels being forced to put to sea in poor, more dangerous conditions so as to avoid fishing at weekends. It was felt that the benefits of a weekend ban as opposed to working for five days out of seven were not clear. An effort restriction of this nature would be likely to displace effort to other vulnerable areas. Concern was also expressed about the effect of a weekend ban on processors. A ban would be likely to create a glut in the market on Fridays. There would also be difficulty in keeping the scallops fresh until they could be processed at the beginning of the following week.

3. Although there was strong support from some quarters, the overall conclusion was that weekend bans should not be formalised. If local interests were keen to promote weekend bans, with local agreement they could do this by securing Regulating Order powers and then attaching the ban as a condition under which the granted Order would operate.

Seasonal Closures

4. The Group considered whether there was scope to implement a common seasonal closure to promote conservation benefits. Scientists considered that benefits would be unlikely in areas where effort could simply be redeplored into the open season, or be displaced to other areas. There were already two seasonal closures in place in the Irish Sea. These have been introduced primarily to protect scallops recovering from spawning. Although there was no demonstrable benefit from the closures, the Group accepted that there were clear in season/out of season quality differences which influenced the yield and market price. They therefore concluded that the closed season arrangements should remain in place. The Group considered whether there was scope to introduce further closures, for example, in the English Channel. Western Isles fishermen would not support further closures. Their experience with a local voluntary scallop closure suggested that because dredges were not disturbing the sea bed, fish were not being attracted to the area to feed on benthic debris or discards. The quantity of fish seemed to have reduced rather than increased.

5. In the Channel, it was concluded that, because of the differences between the seasonal cycle of quality, and the seasonal pattern of fishing, between the Eastern Channel, the
Western Channel off Devon and the Western Channel off Cornwall it would not be practicable to introduce a universal closed season. Information was not available for the small scallop stocks in the North Sea.

6. Group members concluded that there was no common closed season and that there would be a severe risk of displacement of effort resulting from the introduction of further closed areas and that this would be detrimental to the scallop stocks.

**Limit on number and size of dredges**

7. Legislation introduced by DANI for Northern Ireland waters limits the number of dredges that can be towed to 8 per side with an aggregate limit of 40 feet (i.e. 2 feet 6 inches per dredge). Isle of Man legislation prohibits the use of dredges with an aggregate width of 25 feet within 3 miles and of more than 40 feet outside 3 miles. The practical effect of limiting the number of dredges is to reduce the intensity of fishing effort on the grounds. This has obvious conservation benefits provided there is also a limit on the number of vessels or their fishing days.

8. The Group considered the possible extension of this principle to the rest of UK waters. It was considered that if the number of dredges available to each UK vessel was restricted to one standard number throughout all UK waters, there was a risk that larger vessels would simply move inshore to fish with consequent adverse effects on the vulnerable inshore grounds. It was therefore concluded that a zoned approach applying different limits within 6 miles, within 6-12 miles and outside 12 miles should be introduced with associated restrictions on bar length appropriate to the number of dredges to be towed. Since any measures introduced must not be discriminatory, and no particular sector should bear the brunt of any restrictions the Group recommended the following:

8.1 limit the number of dredges to 8 a side within 6 miles with an aggregate limit on the bar length of 40 feet (2 ft 6 inches per dredge).

8.2 limit the number of dredges to 10 a side between 6 and 12 miles with an aggregate limit on the bar length of 50 feet (2 ft 6 inches per dredge).

8.3 limit the number of dredges to 14 a side outside 12 miles with an aggregate limit on the bar length of 70 feet (2 ft 6 inches).

9. A number of vessels currently tow more than 14 dredges a side whose fishing would be affected if the above restrictions were introduced immediately. It may therefore be appropriate to allow a phased reduction, for example over 5 years, for those vessels only. If it were agreed to allow such a phasing-in exercise, it would be necessary to check at the outset which vessels currently tow more than 14 dredges so that the phasing could be monitored.

10. There was wide agreement in the sub-group for the adoption of the principle of dredge number restrictions and the specific bands proposed.

**Belly Rings**

11. It would be possible to specify the size of the belly rings used in dredges. Northern Ireland legislation introduced a requirement for scallop dredge belly rings to have a clear opening of not less than 75mm internal diameter in order to improve their selectivity for both
scallops and whitefish. However, as the rings wear and distort relatively quickly it becomes difficult to measure them for enforcement purposes. Frequent renewal of gear to maintain a ring size would be expensive. An alternative approach would be to specify the number of rings which may be used on the belly and, if chain is used, on the back of the dredge. It was considered that the number of rings physically attached and spread evenly across the specified bar length of belly spring loaded dredge should be 8 with 1 ring hanging down at each side i.e. a total of 10 rings. Where chain is used on the back of the bag it should also be formed of 8 evenly spaced rings + 2 rings. These provisions are proposed for a dredge of 2 feet 6 inches in width. A narrower dredge should have proportionately fewer rings.

12. The Group considered that it should be prohibited to allow the backs of the bags to be blinded to block the escape of undersized scallops. The rules should also incorporate wording to ensure uniform construction throughout the belly and throughout the back.

Diving Plate Dredges (French Dredges)

13. There is concern in some quarters about the use of French dredges because of their potential to take flat fish in quantities and because of the harm it is said they may do to the sea bed. They are banned in Northern Ireland and in Isle of Man waters as well as in England by the Devon and Cornwall Sea Fisheries Committees. Although French dredges are not used in Scotland there are specialist vessels which use them in the Channel, where there are some areas of soft sea bed where French dredges are the only practical method of scallop fishing. It was stated, that provided that the dredge is rigged appropriately there does not need to be a problem with fish by-catch. It is also doubtful whether French dredges (usually 6 ft wide) towed 4 or 6 a side and so sweeping about 36 ft of ground are relatively more damaging than Newhaven dredges which the sub-group has recommended should be limited to an aggregate width of 40 ft within 6 miles.

14. The Group noted that nearly all fishing for French dredges takes place outside 6 miles, and concluded that they could be banned within 6 miles. The Group also suggested that the fish capture issue could be ameliorated by increasing the notional ring size from the usual 60mm to 75mm. As with the spring loaded dredge, this ring size should be expressed in terms of the maximum number of rings physically attached and spread evenly across the diving plate. Blinders should also be prohibited. In conclusion the Group proposed that:

14.1 the existing prohibitions on the use of French dredges should remain in place but subject to those.

14.2 vessels should be permitted to tow a maximum of 6 French dredges a side with an aggregate limit on the bar width of 36 feet.

14.3 the number of rings physically attached and spread evenly across the bar of the dredge should be proportionate and consistent with the provisions in paragraph 11 above.

14.4 use of any form of blinder should be prohibited.

Minimum Tooth Spacing

15. Legislation in Northern Ireland introduced a maximum number of 9 teeth on the dredge and this, in practice regulates the tooth spacing. In a previous consultation on technical measures for scallops, respondents doubted whether there was a scientific case for restricting the number of teeth on the bar. Since then both the Fisheries Research Service at
Aberdeen and the Sea Fish Industry Authority have carried out research which suggests that tooth spacing does affect scallop selection. The work supports the view that the maximum number of teeth on the bar should be 9 evenly spread across the bar. The Group proposed that this standard should be introduced throughout UK waters.

Minimum Carriage Size

16. An EU minimum landing and carriage size of 100mm is already in place around the British Isles (except in Area VIIId where 110mm applies). From 1 January 2000 EU rules will also require 110mm in Area VIIa North of 52°30’. In GB legislation 110mm minimum landing size in Area VIIa should continue to apply between the southern border of Wales with England up to 55° N which is the northern limit of Area VII. In all Northern Ireland waters there is a minimum carriage size of 110mm and the same minimum landing size. The Group considered that a minimum carriage size should be introduced throughout UK waters to support the minimum landing sizes. As in the case of crustacea there should be a prohibition on the carriage of scallops smaller than the minimum landing size applying to the area in which the vessel is present.

Minimum Mesh Size

17. The EU Technical Conservation Regulation requires the use of >100mm minimum mesh to be used in towed gear when targeting scallops from 1 January 2000. Scallops can, however, continue to form part of the by-catch in 70-79mm or 80-99mm whitefish nets. In Northern Ireland waters a minimum mesh of 100mm in the netting cover has been introduced on the basis that while mesh size in diamond mesh net backs may not have a significant effect on scallop selectivity it allows finfish to escape. If net was used on the back of the bag, evidence suggested that few scallops escaped but if chain rings were used there was significant escape of undersized animals. The Group therefore considered that net bags should be made of mesh of at least 100mm.

By-catch Restrictions

18. Current EU rules allow a 10% whitefish by-catch when dredging for scallops. From 1 January 2000 this will be reduced to 5%. Northern Ireland and the Isle of Man have introduced a 1% scallop by-catch restriction when fishing for other species. The sub-group believed that this might be too restrictive. Scallops discards have a relatively good survival rate and by-catch restrictions can help to preserve the stocks. The Group considered whether a 1% by-catch restriction should be extended throughout UK waters but decided against this. They acknowledged that trawl fisheries took scallops in the normal course of events and accepted that this was a useful supplement to income.

19. The Group also considered the circumstances of the Queenie fisheries in the Irish Sea and elsewhere which pose different problems. In those fisheries, the by-catch of king scallops can be significant. When the queenie fishery itself is poor, the king scallop catch is essential to make the fishery viable. Also at those times, the same quantity in weight of king scallops caught, would represent a much larger percentage share of the catch because there are fewer queen scallops. Consideration was given as to the appropriate percentage of target species which should be retained on board. There is already a precedent for a larger than usual by-catch to be allowed where a fishery relies heavily on more than one species to secure its viability. The key element is to ensure that the species being targeted (in this case Queen scallops) is clearly defined as the target species by virtue of the minimum percentage retained on board. Fisheries Departments therefore suggest that the minimum percentage of queen scallops retained on board must be 70% (thus allowing a 30% by-catch of king...
scallops. By-catch of other species is restricted to 5% under EU legislation). A scallop licence would also require to be held for the vessel. If a vessel has more than 30% king scallops retained on board, it will be deemed to be targeting king scallops and, the gear being used must meet the requirements for king scallop gear.

SCALLOP SUB-GROUP
MARCH 1999
The Scottish Ministers, in exercise of the powers conferred on them by sections 5 and 15(3) of the Sea Fish (Conservation) Act 1967(1) and of all other powers enabling them in that behalf, make the following Order:

Citation and commencement

1. This Order may be cited as the Prohibition of Fishing for Scallops (Scotland) Order 2001 and comes into force on 2001.

Interpretation

2.—(1) In this Order—

[“French dredge” means a dredge which incorporates paravanes, diving plates, pressure plates, water deflecting plates or any similar devices and which has a rigid fixed tooth bar;]

“king scallops” means scallops of the species *Pecten maximus*;

“scallop dredge” means any appliance with a rigid framed mouth which is towed through the water and is manufactured, adapted, used or intended for use for the purpose of fishing for king scallops;

“Scottish Adjacent Waters Boundary” means the line (or a part of the line) indicating the boundary between waters which are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not in accordance with article 3(b) of the Scottish Adjacent Waters Boundaries Order 1999(2);

“Scottish inshore waters” has the meaning assigned to it by section 9(1) of the Inshore Fishing (Scotland) Act 1984(3); and

---

(1) 1967 c.84.
(2) S.I. 1999/1126.
(3) 1984 c.26.
“the specified area” means that part of the Scottish zone, lying off the south-west 
coasts of Scotland bounded by a line drawn as follows—

from a point on the coast at 55°17' 57" North latitude and 05°47’ 54" West 
longitude (Mull of Kintyre) in a south-easterly direction to a point on the coast 
at 55°00’ 30" North latitude and 05°09’ 24" West longitude (Corsewall Point); 
then following the line of mean high water mark of ordinary spring tides along 
the coast in a southerly direction to a point at 55°00’ 00" North latitude and 
05°10’ 09" West longitude; then in a westerly direction following the line of 
55°00’ 00" North latitude to the Scottish Adjacent Waters Boundary); then in a 
generally northerly and north westerly direction following the line of the 
Scottish Adjacent Waters Boundary to its point of intersection with 06°35’ 00" 
West longitude; then in a northerly direction to a point on the south coast of 
the Isle of Coll at 56°35’ 12" North latitude and 06°35’ 00" West longitude; 
then following the line of mean high water mark of ordinary spring tides along 
the coast of the Isle of Coll in an easterly, northerly then westerly direction to 
a point at 56°39’ 09" North latitude and 6°35’ 00" West longitude; then in a 
northerly direction to a point at 56°43’ 37” North latitude and 6°35’ 00” West 
longitude; then in an easterly direction to a point on the coast at 56°43’ 37" 
North latitude and  6°13’ 35" West longitude (Ardnamurchan Point); then 
following the line of mean high water mark of ordinary spring tides in a 
generally southerly direction to the point of beginning.

(2) In this Order the length of a tow bar is measured between the rear facing scallop 
dredge towing lugs [at each end of the bar] such measurement to include the lugs.

(3) For the purposes of this Order a fishing boat is deemed to have been fishing for king 
scallops if the catch retained on board that boat includes at least [10/30] per cent by weight 
king scallops.

Prohibition of fishing for king scallops at weekends

3.—(1) Fishing for king scallops by a Scottish fishing boat or by any relevant British fishing 
boat, within the specified area, is prohibited during the time specified in paragraph (2) below.

(2) The time referred to in paragraph (1) is the time between 00.01 hours on Saturday and 
00.01 hours on the following Monday, each week.

Prohibition of fishing for king scallops – French dredge

4.—(1) Fishing for king scallops by a Scottish fishing boat or by any relevant British fishing 
boat by means of a French dredge—

   (a) inside Scottish inshore waters, is prohibited, and

   (b) in the Scottish zone outside Scottish inshore waters, is prohibited except in 
       accordance with the following provisions of this article and article 6.

(2) No more than 6 French dredges may be used from each side of the fishing boat and 
the total length of all tow bars to which such dredges are attached must not exceed 22 metres.
Prohibition of fishing for king scallops – scallop dredges

5.—(1) Fishing for king scallops by means of a scallop dredge (other than a French dredge) by a Scottish fishing boat or by any relevant British fishing boat, in the Scottish zone, is prohibited except in accordance with the following provisions of this article and article 6.

(2) In relation to fishing operations,

(a) inside Scottish inshore waters no more than 8 scallop dredges may be used from each side of the fishing boat and the total length of all tow bars to which such dredges are attached must not exceed 12.2 metres;

(b) in the territorial sea adjacent to Scotland, no more than 10 scallop dredges may be used from each side of the fishing boat and the total length of all tow bars to which such dredges are attached must not exceed 15.3 metres; and

(c) in any other part of the Scottish zone, no more than 14 scallop dredges may be used from each side of the fishing boat and the total length of all tow bars to which such dredges are attached must not exceed 22 metres.

Tooth bars and belly of French and scallop dredges

6.—(1) The teeth on the tooth bar of each French dredge or scallop dredge must be–

(a) no more than 12 millimetres in width measured along the length of the tooth bar, and

(b) evenly spaced along the length of the tooth bar such that only 1 tooth is positioned on each 8.5 centimetres of the length of the tooth bar (such 8.5 centimetres to include the width of each tooth).

(2) The belly of each French dredge or scallop dredge must be–

(a) formed of regularly constructed rings of similar dimensions and

(b) formed of no more than one ring for each 9.5 centimetres of the length of the tooth bar to which the belly is attached and no more than one extra ring along each lateral edge of the belly attached to a part of the dredge other than the tooth bar.

(3) Nothing may be attached to a French dredge or scallop dredge which obstructs in whole or in part the rings or netting on any part of the dredge.

Powers of British sea fishery officers
7.—(1) For the purpose of enforcing the provisions of this Order a British sea-fishery officer (“the officer”) may exercise in relation to

(a) any Scottish fishing boat wherever it may be, and

(b) any relevant other British fishing boat in the Scottish zone,

the powers set out in this article.

(2) The officer may go on board the boat, with or without persons assigned to assist the officer in his duties, and for that purpose may require the boat to stop and do anything else which will facilitate the boarding of the boat.

(3) The officer may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to the officer to be necessary for the purpose mentioned in paragraph (1) above and, in particular,—

(a) may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to the officer to be necessary for facilitating the examination;

(b) may require any person on board the boat to produce any document relating to the boat, to its fishing operations or other operations ancillary thereto or to the persons on board which is in that person’s custody or possession and may take copies of any such document;

(c) for the purpose of ascertaining whether the master, owner or chartered of the boat has contravened this Order, may search the boat for any such document and may require any person on board the boat to do anything which appears to the officer to be necessary for facilitating the search;

(d) where the boat is one in relation to which the officer has reason to suspect that such a contravention has been committed, may seize and detain any such document produced to the officer or found on board for the purpose of enabling the document to be used as evidence in proceedings relating to the contravention;

but nothing in sub-paragraph (d) above shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in port.

(4) Where it appears to the officer that a contravention of this Order has at any time taken place within the Scottish zone, the officer may—

(a) require the master of the boat in relation to which the contravention took place to take, or the officer may take, the boat and it crew to the port which appears to the officer to be the nearest convenient port; and

(b) detain, or require the master to detain, the boat in the port.
(5) Where the officer detains or requires the detention of a boat, the officer must serve on the master a notice in writing stating that the boat is or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

St Andrew’s House,
Edinburgh
2001

Authorised to sign on behalf of the Scottish Ministers
EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which forms part of the law of Scotland only, introduces measures for the conservation of king scallops.

Fishing for king scallops by any British fishing boat in that part of the Scottish zone lying off the south-west coasts of Scotland and more fully defined in article 2 is prohibited by article 3(1) during the time specified in article 3(2). That time is from 00.01 hours on Saturday until 00.01 hours on the following Monday, each week.

Article 4 sets out the powers of British sea fishery officers to enforce this Order.

A map showing the specified area, for illustrative purposes only, is appended to this note.
ANNEX C

MAP REFERRED TO IN THE PROHIBITION OF FISHING FOR SCALLOPS (SCOTLAND) ORDER 2001

SCALE 1:1,250,000

LIMIT OF PROHIBITED AREA

LIMIT OF PROHIBITED AREA

BOUNDARY TO THE SCOTTISH ZONE OF BRITISH FISHERY LIMITS

LEGEND

MAP REFERRED TO IN THE PROHIBITION OF FISHING FOR SCALLOPS (SCOTLAND) ORDER 2001

THE SCOTTISH EXECUTIVE RURAL AFFAIRS DEPARTMENT
21 FEB 2001
DRAWING OFFICE SAUGHTON HOUSE, EDINBURGH