

## CONSULTATION QUESTIONS

### SECTION 1 - THE SUSTAINABLE DEVELOPMENT OF AQUACULTURE

#### Farm Management Agreements (FMAs)

1. Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement (FMA), with sanctions for failure to do so, or to adhere to the terms of the agreement? (Page 9)

NO

#### Appropriate Scale Management Areas (MAs)

2. Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative areas? (Page 9)

NO

#### Management Measures and Dispute Resolution

3. Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements? (Page 10)

NO

4. How do you think such a system might best be developed? (Page 10)

#### Unused Consents

5. Do you agree we ought to review the question of unused consents? (Page 11)

YES but the number of consents is very small

**6. What do you consider are suitable options to promote use or relinquishment of unused consents? (Page 11)**

The existing provisions are adequate but sites which have not been used for more than 5 years should be reviewed. If a farmer uses the site as a fire break then agreeing that there will no longer be a site there will ensure a long term solution.

**7. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents? (Page 12)**

**NO**

**8. Should any such power relate to all or to particular consents (and if the latter, which)? (Page 12)**

**Collection and Publication of Sea-lice Data**

**9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data? (Page 13)**

The current system has hardly been in place for long and has been given little time to effect change. To propose any further changes at this time will not improve anything.

**Surveillance, Biosecurity, Mortality and Disease Data**

**10. Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatment and production as set out above? (Page 16)**

**NO**

**11. What are your views on the timing and frequency of submission of such data? (Page 16)**

The current system is perfectly adequate and there appears to be no purpose to this suggestion. This will impose another cost on the industry with no perceptible benefit

**Biomass Control**

**12. Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them necessary and appropriate – for example to address concerns about fish health and welfare? (Page 16)**

**NO**

**Wellboats**

**13. Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on wellboats? (Page 17)**

**YES**

**Processing Facilities**

**14. Do you think Scottish Ministers should be given additional powers to place controls on processing plants? (Page 17)**

**YES**

**Seaweed Cultivation**

**15. Do you agree that the regulatory framework should be the same for all seaweed farms? (Page 18)**

**YES**

**Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing? (Page 17)**

**YES**

**16. If not, what alternative arrangements would you suggest? (Page 18)**

### **Commercially Damaging Species**

**17. Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species? (Page 19)**

**No**

### **SECTION 2 - PROTECTION OF SHELLFISH GROWING WATERS**

**18. Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry? (Page 21)**

**YES**

### **SECTION 3 - FISH FARMING AND WILD SALMONID INTERACTIONS**

#### **Sea-lice**

**19. Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken, in appropriate circumstances and potentially as part of a wider suite of protection measures? (Page 23)**

**NO**

#### **Containment and Escapes**

**20. Do you agree we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical Standard? (The technical content of the standard would be defined separately.) (Page 25)**

**NO**

#### **Tracing Escapes**

**21. Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes? (Page 26)**

**NO**

## **SECTION 4 - SALMON AND FRESHWATER FISHERIES MANAGEMENT**

### **Modernising the Operation of District Salmon Fishery Boards**

**22. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently? (Page 29)**

**YES**

**23. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries? (Page 29)**

**YES**

**24. If yes, should such Code of Good Practice be statutory or non-statutory? (Page 29)**

**Non-Statutory**

### **Statutory Carcass Tagging**

**25. Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout? (Page 31)**

**YES**

### **Fish Sampling**

**26. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis? (Page 32)**

**NO**

### **Management and Salmon Conservation Measures**

**27. Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders? (Page 32)**

**YES**

**28. Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand? (Page 32)**

**YES**

**29. Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures? (Page 32)**

**YES**

**Dispute Resolution**

**30. Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures? (Page 33)**

**NO**

**Improved Information on Fish and Fisheries**

**31. Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries? (Page 34)**

**YES**

**32. What additional information on the fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances? (Page 34)**

**33. Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout and the fisheries in their district? (Page 34)**

**YES**

**Licensing of Fish Introductions to Freshwater**

**34. Do you agree that Scottish Ministers should have powers to recall, restrict or exclude the jurisdiction of Boards in relation to fish introductions, in certain circumstances? (Page 35)**

**YES**

**35. If so, why and in what circumstances? (Page 35)**

**New genetic strains to the river and non-native species, particularly Rainbow Trout or other non-native trout and minnows**

## **SECTION 5 - MODERNISING ENFORCEMENT PROVISIONS**

### **Strict Liability for Certain Aquaculture Offences**

**36. Do you agree that strict liability criteria should apply – where they capable of being applied – for offences related to Marine Licensing requirements insofar as they apply to aquaculture operations and, potentially, in other situations? (Page 37)**

**NO**

### **Widening the Scope of Fixed Penalty Notices**

**37. Do you agree that we should extend the use of fixed financial penalties as alternatives to prosecution in relation to marine, aquaculture and other regulatory issues for which Marine Scotland has responsibility? (Page 38)**

**NO**

**38. Do you agree that we should increase the maximum sum that can be levied through a fixed penalty notice to £10,000? (Page 39)**

**NO**

**39. Are there particular regulatory areas that merit a higher or lower maximum sum? (Page 39)**

**NO**

### **Enforcement of EU Obligations Beyond British Fisheries Limits**

**40. Do you agree that we should amend section 30(1) of the Fisheries Act 1981 as proposed? (Page 40)**

**YES**

**NO**

### **Powers to Detain Vessels in Port**

**41. Do you agree that sea fisheries enforcement officers should be given specific power to allow vessels to be detained in port for the purposes of court proceedings? (Page 41)**

**YES**

**NO**

### **Disposal of Property/Forfeiture of Prohibited Items**

**42. Do you agree that sea fisheries enforcement officers should be able to dispose of property seized as evidence when it is no longer required, or forfeit items which would be illegal to use? (Page 41)**

**YES**

**NO**

### **Power to Inspect Objects**

**43. Do you agree that sea fisheries enforcement officers should have the power to inspect objects in the sea and elsewhere that are not obviously associated with a vessel, vehicle or relevant premises? (Page 42)**

**YES**

**NO**

### **Sea Fisheries (Shellfish) Act 1967**

**44. Do you have any views on the proposals to amend the Sea Fisheries (Shellfish) Act 1967 to help make its application clearer? (Page 42)**

**YES**

**NO**

### **SECTION 6 - PAYING FOR PROGRESS**

**45. Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities? (Page 43)**

**NO**

**46. If you do not agree that there should be charging provisions, how do you envisage ongoing and new work to assist in management and development of the aquaculture and fisheries sectors should be resourced? (Page 43)**

A review of delivery of current legislation should be undertaken and a drive to reduce legislation put in place. Fit for purpose legislation would require less resource and reduce the costs of delivery. Particularly the reduction in inspection of compliant farms or farms demonstrating a high commitment to resolution would reduce costs.

**47. If no new way of resourcing such activity can be found, what activities do you suggest might be stopped to free up necessary funds? (Page 43)**

This para suggests that government is trying to find a way to fund Marine Scotland rather than to help any of the industries represented and criticised in this document. A starting area would be to look at the overlaps between SEPA, SNH and Marine Scotland and ensure that only one department delivers a view on any area within aquaculture.

Dear Sir or Madam,

### **Aquaculture and Fisheries Bill Consultation**

This letter encloses our response to the Aquaculture and Fisheries Bill Consultation Document and it should be viewed in the light of the contents of this letter.

We must thank you for allowing us the ability to comment on your proposals but there our thanks must end because, whilst this document is, we are sure, well intentioned, it is actually ill-informed, inaccurate and rarely produces any initiative that would advance the industry, its regulation or relationships with other industries.

It would appear that the authors have not read their own document, which starts with a paragraph which states that these industries are “critical to the economies of many remote and rural communities”. It goes further in paragraph 3 to suggest that this document is produced with the intention of helping the industry “flourish and to grow, on a sustainable basis”. We defy anyone in government to show any part of this document that could be seen to be supporting these statements.

As the first farm to be an approved Freedom Food producer of salmon and the company that helped to develop that welfare standard with no government aid or interest, as the winner of Taste of Britain against all other British food and drink, as a company exporting more than 60% of its produce founded on the good name of Scotland, as a company which has won the national VIBES award for Scotland, we deeply resent the tone of the document which automatically assumes the guilt and misbehavior of all salmon farmers and assumes that we have to be treated with draconian punishment in order to force us to comply with current legislation. Furthermore, our staff and our officers resent the suggestion that an employee with little or no experience in our field, employed by Marine Scotland, could impose a Fixed Penalty on us, while we work in a hostile environment outwith our control without any intent to break the law. All proposals within the document rely entirely on the premise that the creation of Marine Scotland has been a success and, that it has delivered on the previous legislation that it was supposed to have delivered. However this is patently not the case and the Audit and Planning process is a very clear example of its inability to deliver. Another organization which grew out of its remit and lost its ability to deliver is SEPA but, far worse, it is losing its experienced people, leaving new and inexperienced staff in charge of a regulatory system which can seriously prejudice the viability of the enterprises which they regulate. Before any of these proposals are put into legislation, an assessment of Marine Scotland and its ability *to deliver its existing remit* should be undertaken before the implementation of proposals such as these, which would and will seriously affect the competitiveness and viability of small companies such as ours. *(We wish to make clear that we believe that many of the employees of Marine Scotland are experienced committed professionals, who deliver and advise well. It is the organization, its legislation and the translation of that legislation that is poorly delivered.)*

Loch Duart Ltd has built a reputation worldwide for salmon with a great taste produced in an ethical manner. Our name is found on menus from San Francisco to Cape Town and from Moscow to Singapore. Our company, who introduced the Freedom Food welfare scheme for salmon to the industry and is accredited to ISO 14001, Label Rouge and Investors in People, is expanding and our investors are committing to developing and growing our business. The great sadness for a company with a Scottish name, selling a Scottish product and raising the profile of Scotland as a great food producing nation is that we are expanding into Canada and Mozambique. Whilst there are clear and defined market and production reasons for expanding to these countries, we are deeply concerned by the continuing inability for the Scottish government to take into account better practices, in-house Research and Development into account in regulation. The development of "better regulation" was intended to be targeted at those who did not comply. This approach has rarely been taken and, in fact, the extreme complication of the current regulatory framework under which the industry has to struggle, means that the staff who should be concentrating on finding better ways to farm and to deliver the biological and environmental performance required are hard pressed to find time to do it. More and more experienced people are required to meet the existing requirements and these proposals will make it worse. Would we ever manage to recruit a member of staff who might be subject to a Fixed Penalty? If that role is not filled, our ability to deliver the requirements of the COGP and other regulatory requirements will be further impinged.

Loch Duart Ltd is committed to finding better ways to farm salmon, not better measured against our competition but better than we have done previously. We know that all farming has to improve environmentally and biologically and we have committed openly to doing so. We have demonstrated this commitment in many ways, from the Freedom Food standard to our own decision to issue press releases on our own failings on escapes, long before it was required to report them to government. We remain committed to spending a considerable amount of our resources on Research and Development to increase our knowledge, develop systems that farm better and find solutions to the issues that we face as farmers every week. It would be a great support to us to find that our government shared and cherished our ambitions in this area and tried to design regulatory processes which aided our ability to deliver better practices rather than tying us up with regulation which will actually deter our process. Finally it has been suggested elsewhere that this document is attempting to find a way to fund Marine Scotland. Whilst we cannot comment on the likelihood of this being true, we can say that we can see little or no other point to it.

Yours sincerely

On behalf of Loch Duart Ltd.

**Loch Duart Ltd's response**  
**to**  
**The Aquaculture and Fisheries Bill Consultation Document**

***Question 1: Do you agree that we should, subject to safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement with sanctions for failure to do so, or to adhere to the terms of the agreement?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

The proposal ignores areas where there is a sole operator, confuses FMAg and FMAs and is generally unclear. Certainly there is insufficient detail for an operator to agree to such an unclear proposal.

From a farmer's perspective this regulation would mire the industry in legal challenges. Large operators with sufficient resources would ensure that their practices and requirements held sway. There is no likelihood that government would be able to protect the small farmer or the differentiated practitioner as it never has.

The proposal is anti-competitive as a company, which is predominant in one area can effectively restrict the sale or operation of another company, whether their practices affect the predominant company or not.

***Question 2: Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Farm Management Areas, but with Scottish Ministers having a fallback power to specify alternative areas?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

As a sole operator in Sutherland, we are used to trying to develop the systems of management in our area to maximize our fish health and optimize our environmental performance. We need to be able to define the areas for this purpose and find no need for powers to be given to the Minister.

In Uist, where there are many operators, we find that our practices do not impact on others and to date have suffered no discernible impact from the operations of others, thus the current system is working. We see no point in changing it.

***Question 3: Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to farm Management Agreements?***

***Question 4: How do you think such a system might best be developed?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response, which provides a clear and robust argument.

***Question 5: Do you agree we ought to review the question of unused consents?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

Whilst there are undoubtedly consents in areas around our farms, there is little prospect of them being farmed. It would be a good matter to tidy up the ones that remain and either persuade the owner to farm or relinquish them. A review is not required, as the industry knows precisely where these consents are.

The Audit and Review process is so complicated, pedantic and slow that it is clear that Marine Scotland is unable to work well in this area. A further process would only serve to

create a bigger mire than we already have. It is suggested that the existing process is concluded (we assume at the end of the next millennium) and then we approach this subject.

***Question 6: What do you consider are suitable options to promote use or relinquishment of unused consents?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

Until the Audit and Review process is concluded, this question is irrelevant. There will be those who give up sites because of the existing encouragement through the Crown rent process but otherwise this would only serve to confuse.

As a company, which uses long fallow practices to reduce the likelihood of disease remediate the benthos (practices which are unrecognized by government and for which we gain no regulatory benefit), we would fear that this approach would regard our fallow sites as unused.

***Question 7: Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents?***

***Question 8: Should any such power relate to all or to particular consents (and if the latter, which)?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

Whilst there are unused sites around Loch Duart Ltd that might impinge on future production, giving powers to Ministers to revoke consents would only serve to further deter investors from becoming involved or having further involvement in the Scottish salmon industry. As we have spent the last year raising funds for our expansion, we can confirm that funders are aware of the issues surrounding regulation of the this industry and it does not encourage them to commit.

If the Audit and review process were to be completed ever, then this issue could be dealt with then but this is so far away as not to be worth contemplating.

***Question 9: What, in your view, is the most appropriate approach to be taken to the collection and publication of sea lice data?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

It seems risible that we are only just over a year since the last discussions on reporting of such data and the recommendations of the Healthier Fish Working Group. What on earth was the point of setting up this group if one year later its recommendations are to be surpassed. It was obvious and remains so that those who oppose or criticize the industry would insist that more was needed but we must insist that the current system is given time to work before more onerous systems are put into place.

As we have suffered already from an inaccuracy on SPRI about our use of medicines, we are extremely doubtful about another publication from government that could contain inaccuracies, allowing those who oppose salmon farming to attack our company. The commercial sensitivity of the information provided must be protected and we have considerable doubts about government's ability to maintain that protection.

***Question 10: Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatments and production as set out above?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

There appears to be a dangerous assumption in this document that data submitted has no cost and that its generation and submission is a simple process that will have no effect on the industry. It already does and we see no beneficial effect from the data we currently submit. In fact we have seen no effect at all. It is highly unlikely that further submissions will affect the industry except in terms of the cost of generation and checking the data and then the cost of government recording and analyzing it. What will this information be used for?

***Question 11: What are your views on the timing and frequency of submission of such data?***

Loch Duart Ltd believes that the current submissions are enough and that further data will not have any value.

***Question 12: Do you agree that Scottish Ministers should have powers to require SEPA to reduce biomass consents where it appears to them necessary and appropriate - for example to address concerns about fish health and welfare?***

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

If government intends to usurp the legal responsibility of farmers for the welfare of their stock then will it also take the financial consequences of that action? Will it also take responsibility for the loss of jobs and the financial impact of those losses on investors and banks. The problem with the way this document is written is that it denigrates fish farmers and thus is impossible to agree with in almost all of its proposals. This use of language is extremely prejudicial to those who might consider investing in this industry. Can you explain the process by which the above might occur and what guidelines would be issued? For an investor into this industry, the above would threaten the existence of any farm that already has full consent and could drive it out of business. This is an ill thought and counterproductive proposal.

***Question 13: Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on wellboats?***

Loch Duart Ltd agrees with this proposal. We have long argued that the freedom of wellboats travelling up and down the west coast is a risk to the farms by which they pass. Furthermore the practice of moving salmon long ways cannot but be an increased risk for transferring disease from place to place.

The use of satellite tracking on all wellboats should be mandatory and the status of their wells, whether open or closed should be automatically transmitted with their position.

Whilst there are few smaller independent farmers left, it is important to protect those that have to exist in one small area from those who operate over a wide area. The risk of the spread of sea lice and other diseases by wellboats must be precluded or at least monitored closely. Furthermore the practice of wellboat treatments must include that the wellboat must discharge on site.

***Question 14: Do you think Scottish Ministers should be given additional powers to place controls on processing plants?***

Loch Duart Ltd agrees with this proposal but only insofar as it applies to Processing plants which discharge to the sea or that are by the sea with a risk of contamination occurring from the plant.

***Question 15: Do you agree that the regulatory framework should be the same for all seaweed farms?***

**Question 16: Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing?**

**Question 17: If not, what alternative arrangements do you suggest?**

Loch Duart agrees with these proposals and believes that it would benefit the finfish industry as well as encouraging the development of more seaweed farms in Scotland.

**Question 18: Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species?**

Loch Duart Ltd does not agree to this proposal as it is too wide ranging in its remit. However there is a case for certain species and these should be dealt with one by one.

Part 4

Loch Duart Ltd does not feel it appropriate to comment.

**Question 20: Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken in appropriate circumstances and potentially as part of a wider suite of protection measures?**

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

The proposals are simplistic and assume that giving a lower threshold will simply solve the problem. It assumes that somehow salmon farmers are dilatory in managing sea lice and setting a lower threshold would make the farmer treat more often and more effectively. Yet salmon farmers would operate without any sea lice at all if they could. Thus this proposal is ill-conceived and does not understand the sea lice position.

**Question 21: Do you agree that we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical standard?**

Loch Duart Ltd agrees that a technical standard should be created for new equipment. However we find it somewhat disrespectful that a government proposal refers to anecdotal evidence suggesting "that some operators risk using unsuitable equipment or lower quality material". The whole document refers to finfish farmers in this tone, suggesting that operators make these judgements without due regard. To use anecdotal evidence in such a case is most peculiar as inspectors will have seen the equipment that failed as they will have inspected the farms. Either this is the cause of failure or it is not. Anecdotal evidence is not relevant and should not be used as a basis for legislation.

Loch Duart Ltd, as many other operators, use equipment of some age and wear. We select where to place it to ensure that it is of appropriate strength and suitability for the site into which it will be placed. If all equipment must conform to the standard then Loch Duart Ltd may easily be driven out of business in a very short time by government. Thus all equipment in use that has demonstrated its safety in current sites should be allowed to continue in use. Otherwise, as this document continually does, the proposals will not only make the industry less competitive but also cause some of it to close down.

**Question 22: Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms for tracing purposes?**

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

Loch Duart Ltd retains and breeds from the last remaining commercial Scottish broodstock. The genes came from different rivers around Scotland over 30 years ago. Since then it has been carefully developed, trying to keep the different conformation and the Scottish look. The remainder of the industry use fish from a variety of stocks, often sourced from the Norwegian egg producers.

Taking genetic samples from one farm would be mirrored elsewhere as the stocks are sold to many farms and many companies around Scotland. Loch Duart Ltd's stock would be identifiable but others would not. We feel that this would be unfair and put our company at a disadvantage.

We support the view that this is a further attempt to draw funding into Marine Scotland.

***Question 23: Do you agree that we should introduce a specific duty on Boards to act fairly and transparently?***

***Question 24: Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries?***

***Question 25: If yes, do you think such a Code of Good Practice should be statutory or non-statutory?***

Loch Duart Ltd agrees with these proposals and believes that a non-statutory Code of Good Practice should be proposed.

Loch Duart Ltd would not normally comment on legislation proposals in another industry, however this industry does criticize salmon farming heavily and bases its criticism on concerns about the impacts of salmon farming on the stocks in the rivers. Whether these beliefs have any foundation is irrelevant to the following. Without baseline population work done independently by government, it cannot be known what the status of the stocks in the rivers is. Furthermore the disparity between any level of catch being allowed and the unknown status of the stock level should not be allowed to continue. Currently when a high angling catch is reported, it is not known whether the returning stock is high or that the conditions for catching were favourable. As salmon farming has been blamed for declining catches, despite evidence to the contrary, the continued pressure for more extreme regulation and reporting continues as evidenced in this document. It is therefore reasonable to suggest that government should ascertain the exact status of the stocks and then put together a robust plan to restrict catches to levels that are sustainable on the same model as is used at sea.

***Question 26: Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout?***

Loch Duart Ltd fully agrees with this proposal.

***Question 27: Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis?***

Loch Duart refers to the SSPO response in this case as it has no particular knowledge in this area. However it does appear to be another attempt to try to fund Marine Scotland through the sampling and retention of more genetic material.

***Question 28: Do you agree that Scottish Ministers should have powers to initiate changes to the Salmon District Close Time Orders?***

***Question 29: Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand?***

***Question 30: Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures?***

Loch Duart Ltd supports these measures.

**Question 31: Do you agree that we should introduce dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures?**

Loch Duart Ltd refers to the SSPO response in this area as it has limited knowledge of this field.

**Question 32: Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries?**

Loch Duart Ltd supports this proposal as just as in response to Q23 – 25, the more accurate definition of the decline in salmon and sea trout stocks linked to appropriate controlling conservation measures will give greater clarity to the debate over the putative impact of salmon farming on these stocks.

**Question 33: What additional information on fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances?**

We refer to the SSPO response and add the following:

Many rivers use stocking and rear fish just as in salmon farming. This issue is becoming very clear in Alaska where salmon that are termed wild are farmed and released into the sea. If this were done in Scotland it would be referred to as an escape. The rivers of Scotland have been stocked with many different strains of stock. In Sutherland one of the largest stocks of sea trout originated from an input of Polish stocks in the early 20<sup>th</sup> century. It is also known that Norwegian stock was imported and put into one of the major rivers in our area. These facts are not deniable and demonstrate the difficulties in the argument over the impact of salmon farming. Yet what is not recorded is what the managers of these rivers are doing now. All stocking of rivers should be recorded and provided to government, including the origin of the stock, the mortality to stocking, any disease that occurs, the numbers and placement of the stocks in the river. As there has been considerable discussion around the fragility of the stocks on the west coast and that some genetic strains are local to a particular tributary, the siting for stocking must be recorded in order that future effects of that stocking can be evaluated.

**Question 34: Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout fisheries in their district?**

Loch Duart Ltd agrees with the SSPO response to this proposal.

**Question 35: Do you agree that Scottish Ministers should have the powers to recall, restrict or exclude the jurisdiction of Boards in relation to fish introduction, in certain circumstances?**

**Question 36: If so, why and in what circumstances?**

Loch Duart Ltd agrees with this proposal as the covered in the response to Q33. The introduction of any fish that are reared in any way other than the natural course of the river should be covered by the same legislation that covers aquaculture. Furthermore there should be a presumption against stocking unless there is evidence to suggest that there is a need for stock enhancement or habitat development allows for greater stock in the river and there is a very limited broodstock.

**Question 37: Do you agree that strict liability criteria should apply – where they are capable of being applied – for offences related to Marine Licensing requirements insofar as they apply to aquaculture operations and, potentially, in other situations?**

Loch Duart Ltd does not agree to this proposal. We refer to the SSPO response and add the following:

We feel aggrieved that our industry should be so targeted. This language and proposal targets the very nature of the Scottish salmon brand.

This will affect our ability to attract staff and our existing staff would have to be informed of the risk to them should they wish to continue in their current roles. The existing Board of our company would have to evaluate their own positions in the light of this.

The Fixed Penalty idea would not just affect a person financially it would also criminalise them and effectively ruin their career. It will make it very unlikely that anyone will invest or regard salmon farming as a future career.

One thing is clear is that this is the culmination of a document that holds salmon farmers, anglers and fishermen in poor regard. One would have to think that Marine Scotland thinks very little of the very people it is supposed to regulate. This is a situation, which can hardly bode well for the future of these industries so "critical to many remote and rural communities".

***Question 38: Do you agree that we should extend the use of fixed financial penalties to prosecution in relation to marine aquaculture and other regulatory issues for which Marine Scotland has responsibility?***

***Question 39: Do you agree that we should increase the maximum sum that can be levied through a fixed penalty notice to £10,000?***

***Question 40: Are there particular regulatory areas that merit a higher or lower maximum sum?***

Loch Duart Ltd does not agree to these proposals. We refer to the SSPO response and add the following:

We are utterly appalled at this suggestion and feel that the removal of intent as a defense in an industry that works in a hostile environment in remote areas is completely unfair and prejudicial to our human rights to go about our business. We feel that the whole issue of Fixed Penalties is unjust and thus the matter of the sums involved is irrelevant.

***Question 46: Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities?***

***Question 47: If you do not agree that there should be charging provisions, how do you envisage ongoing and new work to assist in management and development of the aquaculture and fisheries sectors should be resourced?***

***Question 48: If no new way of resourcing such activity can be found, what do you suggest might be stopped to free up necessary funds?***

Loch Duart Ltd does not agree to these proposals. We refer to the SSPO response and add the following:

We feel that these proposals are targeted at funding Marine Scotland rather than affecting the sectors concerned.

It is noted that in point 140, the authors "recognize that we would require to deliver an appropriate standard of service". Perhaps if a proper evaluation of the service were done before any legislation were put into place, a different set of proposals would be on the table. Nevertheless as the Audit and Review process is a glaring example of Marine Scotland's inability to deliver, it is unlikely that "an appropriate standard of service" would be delivered and thus an agreement to the suggestion of paying for more of the same is hardly likely to be supported.

In response to Q 47, it would appear that the provisions proposed in this document are designed to stop both the management (through Fixed Penalties) and the development

(through driving away all potential investors) and thus the question is irrelevant. A proper and diligent review of the existing legislation would create a more streamlined and fit for purpose set of regulations which would require less resource rather than more. Thus saving the taxpayer money and the industry from a loss of competitiveness and further exorbitant charges for services it neither requires nor wants.