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21st June 2008.

For the attention of: Marine Bill Team, Department for Environment, Food and Rural Affairs,
Area 2C, Nobel House, 17 Smith Square, London SW1P 3JR.

Dear Sir, Draft Marine Bill : Public Consultation.

I write on behalf of MARINET, the Marine Network of Friends of the Earth Local Groups and affiliated members, in connection with your invitation for public comments on the Draft Marine Bill, CM 7351, published April 2008.

We offer our comments in the following form. Firstly, our perception of the documented condition of the marine environment and legislation pertaining thereto. Secondly, our perception of the legislative response required in the light of the current condition of the marine environment. And thirdly, our perception of whether the Draft Marine Bill meets the required standard in the light of the foregoing observations.

Current Condition of UK Marine Environment.

There is considerable evidence that the health of the UK's seas (here defined as from coastal high water mark to the limits of the UK Exclusive Economic Zone) is in serious decline, and that this process has been in operation for a long period, but has accelerated in recent time as mankind's ability to affect the sea by reason of increased use (i.e. the establishment of communications, oil and gas extraction, marine aggregate dredging and so forth) and by reason of new technology (i.e. the presence of man-made chemicals, the development of intensive fishing practices) has undergone a clear increase in scale.

The evidence to support this assertion is considerable. We cite the following examples:

○ *State of Nature: Maritime – getting onto an even keel*, published by English Nature, 2002. In this publication (ref. pages 5 to 7) the authors record that our maritime ecosystems and their wildlife are being damaged and are in decline as a result of continuing human impacts and demands. Amongst the marine wildlife and ecosystems and human impacts cited are:
◦ Coastal habitats, including dune systems, salt marsh and vegetated shingle, which are being lost due to development, thus squeezing out these natural habitats and their associated wildlife.
◦ Marine plankton, the microscopic plants and animals at the foot of the food chain, are in decline due, it is believed, to carbon emissions and associated global warming (i.e. changes in temperature and acidity levels).

◦ Fishing has taken so many fish out of the seas that the basic structure of marine food chains has altered and is degrading. The authors assert that between 1880 and 1981 we have significantly impacted, possibly halved, the complexity of the North Sea marine food chain.
◦ Human pressure has significantly modified the variety of species that live in the sea. Fishing has systematically removed the large and slow growing species of fish, and they have been replaced by other fish species that can better cope with this disturbance.
◦ Fishing has removed most of the large and old fish from the natural population of species. Large and older fish are sexually more fecund than smaller, younger fish. For example, plaice are now a quarter of the size they were in 1902, the average size of cod has declined significantly, and the estimated total fish stock has declined in the North Sea by approximately 35% in the last 25 years.
◦ Fishing activity (trawling) over sandy seabeds has resulted in dramatic changes to the species composition of these habitats. Over the last century there has been a decline in virtually all bivalve mollusc species that live in the sediment of these areas.
◦ Heavy metals and man-made chemicals, including radionuclides, have been discharged into the seas in considerable quantities, significant amounts of which are now locked up in marine sediments and animal tissues. Accumulations of these substances in marine mammals affect their immune system, and accumulations in fish affect their reproductive processes. Predators of fish, i.e. birds, are consequentially affected.
◦ Decline in fish and shellfish populations has had a seriously adverse affect on the economics of the UK fishing industry, reducing the industry to a shadow of its former self (Note: this evidence is not directly cited by English Nature in this publication).
◦ Decline in fish and shellfish populations has imperilled a vital food source for the UK population which is now confronted, for the first time in its history, with a future where UK seafoods are greatly diminished in supply. This impacts inequitably on lower income households and their health. (Note: this evidence is not directly cited by English Nature in this publication).

○ *The Unnatural History of the Sea : The past and future of humanity and fishing*, by Prof. Callum Roberts, published 2007. This publication documents the historical background to UK and world fisheries, fishing practices, and the severe decline (in some cases to the brink of extinction) in many marine species. It authenticates, with historical data, many of the foregoing observations in the English Nature publication. Of additional note are:
◦ It is calculated (ref. page 201 to 205) that European fish stocks are today just one-tenth of their size in 1900, and that two-thirds of this decline has happened since 1950.
◦ 1900 is far from being an unexploited baseline when measuring the size of fish populations. By 1900 Europe's seas were already heavily fished. The year 1900 therefore represents a waypoint in the downward trajectory of fish populations, rather than a baseline. In relation to true unexploited populations, it is estimated that we probably now have less than 5% of the total mass of fish that once swam in Europe's seas.
◦ Large-bodied fish (e.g. Common skate, bluefin tuna), which are long-lived and late-maturing fish, play a key role in the structure of natural marine ecosystems. However they are particularly vulnerable to modern fishing practices, and their demise profoundly alters the structure of the marine ecosystem. It is estimated that today's population of large-bodied fish species in the North Sea is only one-fiftieth of the size that it would be in the absence of fishing. Some species have declined even more dramatically, and the common skate has probably declined a thousand fold. Another species that has almost disappeared, having once been abundant, is bluefin tuna.
◦ Trawling has virtually eliminated entire habitats and associated benthic marine life. The loss and destruction of such habitats inevitably causes severe damage to the marine food chain.

○ *The End Of The Line : How overfishing is changing the world and what we eat* by Charles Clover, published 2004. This publication mirrors and re-inforces the factual basis of the foregoing authors. Of particular note is the following:

◦ Vast natural oyster beds covered large parts of the east coast of England 2000 years ago, and were traded throughout Europe (ref. page 48 to 50). These extensive oyster beds on the sandy sediment of the North Sea are of considerable ecological significance. Not only did they have a huge filtering capacity (purifying the water) but they also formed a biotope – when a key species (oyster) in combination with its habitat (sandy sediment) enables a complex ecological structure (many other marine species) to develop in an environment which would otherwise be impoverished. Remnants of these oyster beds remain in Essex and Kent, but the vast beds that once existed have been fished out (trawling) and affected by a parasite (compromised immune system, possibly due to chemical pollution). The loss of these oyster beds has meant a severe decline in the biodiversity and health of the seas in this area (Note: 19th century maps on the Dutch and German side of the North Sea show oyster beds 120 miles in length, but these disappeared in the years following the Second World War). The North Sea is now plagued by eutrophication (plankton blooms engendered by excessive nutrients – agricultural run-off and sewage pollution – resulting in anoxic conditions). Hypothesis: if these oyster beds existed today, our ability to control this severe environmental assault would be greatly strengthened.

○ *International Council for the Exploration of the Sea (ICES).* ICES provides the scientific data on fish populations, and thus the scientific basis upon which fishing policies (e.g. EU Common Fisheries Policy) are determined. Fish Stocks in Sub area IV (North Sea) as recorded by ICES for 2007 show that the spawning populations of *Cod, Herring, Halibut and Whiting* are at all time historical lows, and the spawning populations of *Plaice, Mackerel, Saithe and Sole* are being harvested unsustainably.

Regarding fish populations, it is to be noted:

◦ Cod : Cod populations, once the mainstay of the UK fishing industry, are in a state of collapse. At the beginning of the 1900s UK boats caught between six to eight times more cod from the North Sea than they do today, and cod stocks overall were at least ten times greater than they are today. Moreover, in the 1850s cod stocks were probably twice the size of what they were in 1900 (Source: Prof. Callum Roberts, University of York, *BBC News 24,* 17 December 2007). In order to rebuild cod stocks in the North Sea, the EU and UK scientists believe that we need a spawning population (i.e. an adult population of cod aged 6 years or over – a cod can live to 20 years or more if allowed) of 150,000 tonnes. At present the spawning population is around 40,000 tonnes or less. The figure of 150,000 tonnes is actually a very unambitious target population, and probably only represents about 10% of the historical population size (i.e. the population in 1900 and earlier). Therefore, the existing population of 40,000 tonnes is extremely low and threatens commercial extinction if we continue to fish it. Continuing to fish this population of 40,000 tonnes is precisely what the EU and UK fisheries ministers are currently allowing and, because this spawning stock rose fractionally in 2007, the fisheries ministers have actually allowed an increase in the quota levels for cod which can be caught in 2008. In reality, fisheries science (ref. Prof. C. Roberts) predicts that we can only restore and then sustainably harvest populations of fish if we maintain those spawning populations at around half their unexploited level. In the case of cod, this means that we have to restore cod spawning populations to a level that is around 15 to 25 times the current population. In contrast, the reality is that fisheries ministers have for the last 20 years, year after year, exceeded safe catch levels by an average of 15-30% of the population. The result is that the UK cod population has progressively declined until it now faces commercial extinction.

◦ Mackerel : The North Sea mackerel population was over-fished, collapsed in the 1970s, and has never recovered.

◦ Herring : The North Sea herring population, like the cod population, was once the mainstay of the UK fishing industry and employed huge numbers of sailing craft in the 1800s and was a major export industry up until the Second World War. After the War, the spawning stock fell from 5 million tonnes in 1947 to 1.4 million tonnes by 1954, and by 1975 the spawning stock had collapsed even further to only 83,500 tonnes. In the mid-1970s a complete ban on herring fishing was

enforced for four years. The stock recovered, but not to its post-War level. The spawning stock declined severely again in the 1990s, and since 1996 licensed fishing of herring has been very limited.

◦ Whiting : ICES reports that the 2007 stock in the North Sea is over-exploited and the spawning population currently at its lowest level since 1995.

◦ Plaice : ICES reports that the 2007 stock in the North Sea is over-exploited, and the spawning population is at risk of "reduced reproductive capacity".

◦ Sole : ICES reports that the 2007 stock in the North Sea is over-exploited, and the spawning population is at risk of "reduced reproductive capacity".

○ *Royal Commission on Environmental Pollution, 25th Report : Turning The Tide : Addressing the impact of fisheries on the marine environment,* published 2004.

◦ The Royal Commission has documented the fact that the relentless pressure of fishing has meant that the deep ocean and seas around our coast are being depleted of fish and other living creatures at an alarming and unsustainable rate. This is reflected not just in the decline in fish populations, but also in the destruction of marine habitats as a result of fishing practices, particularly trawling (ref. para. 1.8).

◦ However the Royal Commission addressed not just the issue of decline in marine biodiversity, but also the fundamental question of the management of the seas, believing that management practices are not just a cause of the problem but are also capable of providing the solution. In particular, the Royal Commission, citing the Defra 2002 publication *Safeguarding Our Seas,* believes that management must recognise that our seas not just as an agglomeration of commodities, both animal and mineral, to be harvested continuously and in isolation from one another, but rather must view our seas as an ecosystem upon which the fecundity of all harvests and all marine creatures depends. In short, it recommends that future management of UK seas should be founded on the "ecosystem approach", defined (Defra 2002) as "the integrated management of human activities based on knowledge of ecosystem dynamics to achieve sustainable use of ecosystem goods and services and maintenance and ecosystem integrity." (ref. para 1.13).

◦ As a result the Royal Commission recommended that the primary and most significant tool in this new management approach is the marine reserve. Marine reserves, based wherever possible on the no-take principle (forbidding all human extractive activity), are capable of rebuilding the full marine ecosystem (i.e. all physical habitats, all species, and all interactions and relationships) within defined areas of our seas. This in turn restores the food chain, the fecundity of species, and the viability of commercially exploited fish populations. To be effective as a management tool, these marine reserves need to be linked together as a network, mirroring the life-cycle requirements of marine species and the marine environment as a whole, and must cover a sufficiently extensive area. This area, based on scientific studies, should be at least 30% of the sea (ref. chapter 8).

◦ In order to bring forward this new management regime based on an ecologically coherent network of marine reserves and the ecosystem approach, the Royal Commission recommended that the UK Government should develop a comprehensive system of marine spatial planning, that this planning system should be placed on a statutory basis, and that the planning system should have a clear framework for public participation (ref. para 10.22)

○ *European Scientists' Consensus Statement on Marine Reserves*, York University, UK, April 2008. The Statement, signed by 309 European marine scientists with a Masters or PhD qualification, records that Fully Protected Marine Reserves are essential for conservation, are necessary for the implementation of effective management of the sea, have important benefits to scientific understanding of this environment, and when established as networks will be a major step toward implementing the ecosystem approach to management of the sea. Such networks will yield long-term conservation benefits and provide support for other management methods to improve fisheries, and are an essential tool in the package of measures needed to arrest the degradation of

European seas and bring about their restoration. Further, the Statement notes that the United Kingdom is party to the following international agreements which endorse a management policy for our seas based on ecologically coherent networks of marine reserves and the ecosystem approach to marine management:

◦ The World Parks Congress, 2003 (which represented the largest ever global assembly of protected area specialists and conservation managers) recommended that marine "protected area networks should be extensive and include strictly protected areas (i.e. marine reserves) that amount to at least 20-30% of each habitat." This specific recommendation is also echoed by other scientific, political and expert fora, including in 2005 the United Nations Millennium Project which called for 10% of the oceans to be covered by marine reserves in the short to medium term, with a long-term goal of 30%.

◦ Decision VII/28 of the Conference of the Parties of the Convention on Biological Diversity which requires all signatory parties to complete such a network of well-managed marine sites by 2012, including representative marine and coastal areas where extractive uses are excluded, and other significant human pressures are removed or minimised.

○ *EU Marine Strategy Framework Directive*, final agreed version March 2008. This Directive will shortly be ratified and become binding upon UK law. It requires:

◦ An ecosystem-based approach to the management of human activities which will enable a sustainable use of marine goods and services whilst giving priority to the achievement and maintenance of good environmental status, the purpose of such status being to protect, preserve and prevent any subsequent deterioration in the marine environment.

◦ The development by each member state of a Marine Strategy for its marine waters which, while being specific to its own waters, reflects the overall perspective of the Marine Region or Sub-Region concerned. Marine Strategies should culminate in the execution of programmes of measures designed to achieve or maintain good environmental status.

◦ The development, by 2015 at the latest, of a programme of measures designed to achieve or maintain good environmental status, and with the full implementation of these measure by 2020 at the latest.

◦ Good Environmental Status is defined as:

▪ Biological diversity is maintained. The quality and occurrence of habitats, and the distribution and abundance of species, are in line with prevailing physiographic, geographic and climatic conditions.

▪ Non-indigenous species introduced by human activities are at levels that do not adversely alter the ecosystems.

▪ Populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock.

▪ All elements of the marine food webs, to the extent that they are known, occur at normal abundance and diversity and are at levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity.

▪ Human-induced eutrophication is minimised, especially with respect to its adverse effects such as losses in biodiversity, ecosystem degradation, harmful algae blooms and oxygen deficiency in bottom waters.

▪ Sea floor integrity is at a level that ensures that the structure and functions of the marine ecosystems are safeguarded and benthic ecosystems, in particular, are not adversely affected.

▪ Permanent alteration of hydrographical conditions does not adversely affect marine ecosystems.

▪ Concentrations of contaminants are at levels which do give rise to pollution effects.

▪ Contaminants in fish and other seafood for human consumption do not exceed levels established by Community legislation or other relevant standards.

▪ Properties and quantities of marine litter do not cause harm to the coastal and marine environment.

▪ Introduction of energy, including underwater noise, is at levels that does not adversely affect the marine environment.

◦ The Directive supports the strong position taken by the Community, in the context of the Convention on Biological Diversity on halting biodiversity loss, which ensures the conservation and sustainable use of marine biodiversity and the creation of a global network of marine protected areas by 2012.

○ *EU Habitats and Wild Birds Directives.* These two Directives, now well established in UK law, have been widely implemented around British coasts and estuaries. However their implementation beyond the 12 nautical mile territorial limit and out to 200 nautical miles has only been initiated this year (2008) with the Joint Nature Conservation Committee (JNCC) identifying seven sites for possible Special Area of Conservation (SAC) designation.

◦ The habitats which the Directive identifies as being capable of designation are:

▪ Reefs.

▪ Sandbanks which are slightly covered by seawater all the time.

▪ Submarine structures made by leaking gases.

◦ It should be noted that this is a very limited range of habitats. The actual range of physical habitats that exists in association with marine biodiversity is far more numerous and diverse. Therefore the Habitats Directive and its criteria (the above listed Annex I habitats) is a very poor basis upon which to identify - for the purposes of the ecosystem approach to marine management - the complex and varied range of habitats that need protection and, by means of which, marine biodiversity is sustained. Thus whilst the JNCC's 2008 initiative is to be welcomed, it can hardly be viewed as a basis for developing an extensive, ecologically coherent network of Marine Reserves as envisaged by international commitments, and viewed as being necessary by a wide body of scientific and academic opinion.

○ *The OSPAR Convention for the Protection of the Marine Environment of the North East Atlantic:* The OSPAR Convention came into existence in 1998. It is composed of those European countries whose coasts border the North East Atlantic. The UK is a member of the Convention.

◦ Under Annex V of the Convention, member countries are signatories to a commitment to "*protect and conserve the biological diversity of the maritime area and its ecosystems which are, or could be, affected as a result of human activities, and to restore, where possible, marine areas which have been adversely affected*." In addition, the Convention states that a key tool would be the implementation of "*a network of marine protected areas*" and that this network should be established by 2010.

<u>The Legislative Response Required from the UK Marine Bill</u>.

In order for the UK Government to respond meaningfully and effectively to the deteriorating condition of our seas (as documented above) and the legislative commitments that this country is committed to via international and EU law, we (MARINET) believe that the UK Marine Bill must place a duty upon the Secretary of State (Defra) to create an ecologically coherent network of Highly Protected Marine Reserves (where all extractive activity, including fishing, is prohibited) which covers at least 30% of UK seas out to 200 nautical miles by 2015.

We believe that the Marine Bill must make this duty a binding, legal obligation upon all successive UK Governments.

We believe that this duty is necessary for the following reasons and must display the following features:

○ This network of Highly Protected Marine Reserves (HPMRs) is the only way in which future management of UK seas can deliver ecological coherence and the "ecosystem approach", this coherence and approach being features of future marine management to which virtually all scientific experts, both inside and outside government, subscribe. In short, there is no other system of marine management capable of addressing and solving the ecological crisis and delivering the legislative commitments as described above. Without such a network of HPMRs on this extensive and ecologically coherent scale, there is no way for future management to restore the "good environmental status" of the marine food chain through which all marine creatures are sustained.

○ This network of HPMRs will need to embrace and be representative of all marine habitats, and should regard as its parallel the diversity that exists within the terrestrial National Park system. Only if the network of HPMRs is all-embracing in this manner can we be certain that our future management of the seas is concerned with the marine ecosystem as a whole. This is a cardinal principle. Only when our definition of purpose is to protect the marine ecosystem as a whole can we be certain that our management philosophy will be properly grounded. It will thereby ensure that all species and all habitats fall within its compass, and that all features such as migratory behaviour and life-cycle behaviour are included.

○ When an ecologically coherent (interlinked) network of HPMRs is established, prohibiting *all* extractive activity within its boundaries, we can be certain that we have set aside a body of the sea that will be able to restore and sustain the marine environment's natural condition. Such a body of the sea displaying this feature is essential for the regeneration of fish stocks and for the security of the full biodiversity of our seas in the long-term. Without this security and certainty, the economic value and potential of our seas will continue in their inexorable decline – this being a condition which no UK Government, either now or in the future, can justify. An extensive network of HPMRs established on this basis will afford a new future for fishermen and the fishing industry. This new future is not simply based on the regeneration of fish stocks. It is also based on the need for management. Fishermen, with their boats and vast experience, are ideally suited to undertake management responsibilities within this network of HPMRs, thus giving them a new economic function and role. Further, resources to develop this new management approach are available from marine taxes. For example, the marine aggregate levy currently yields around £45 million annually. This revenue stream, and possibly others, is available to deliver a properly trained and functioning management regime whose purpose is not just ecological restoration and protection but also the regeneration of the economic value of our seas – when our fisheries are rebuilt their economic value and yield will easily justify such investment of public funds.

○ An ecologically coherent network of HPMRs covering at least 30% of UK seas out to 200 nautical miles is justified by scientific consensus. The Royal Commission's 25th Report reported on the sound scientific basis for this size, and academic support exists widely for this scale of provision. There is little doubt in our mind that without such ambition and scale of designation, we will not be able to perform the cardinal function of a network of HPMRs – namely, *to manage the marine ecosystem as a whole*. Individual sites, protecting individual habitats and individual species, which are simply totalled on an arithmetic basis, lack both the ecological coherence and the systemic approach which is so vital if this new management philosophy is to succeed. Indeed, it is almost impossible to conceive how the United Kingdom is going to be able to deliver on "good environmental status" throughout its seas within the 2015 to 2020 time-frame (ref. EU Marine Strategy Framework Directive) unless it has a tool that allows us to manage the marine environment as a whole. That tool is, and can only be, an extensive ecologically coherent network of Highly Protected Marine Reserves. Is a figure of 30% too large or too small ? No one knows the answer to this question. However, experience to date from elsewhere in the world suggest that 30% is the right size to be aiming for. What is clear to us is that we need a clear figure which will then enable

us to see, in the light of experience, whether that figure should contract or expand. The key is to act. Action requires a target and a destination. 30% provides this, and it is a figure with wide scientific and academic support.

○ The extensive network of HPMRs as proposed above would have a profound effect on our fisheries, and it has been argued elsewhere that this is a problem. The United Kingdom cannot, it is said, establish such HPMRs because all fishery matters are now the sovereign concern of the EU Common Fisheries Policy. The truth is not so simple. Certainly the Common Fisheries Policy regulates all matters that pertain to the management of fisheries. However, an extensive network of Highly Protected Marine Reserves is concerned with the management and protection of *the well-being of the marine environment as a whole.* This is not a function of the Common Fisheries Policy. It is, as the EU Marine Strategy Framework Directive recognises, the responsibility and function of the individual members states. Thus, with regard to UK seas out to 200 nautical miles, this is a responsibility of the United Kingdom and its Parliament. Therefore the UK Government has the sovereign authority to establish the extensive network of HPMRs with the function that we have described, and to do so within the UK Parliament and the Marine Bill.

○ Should the Marine Bill place a duty on the Secretary of State to establish this extensive network of Highly Protected Marine Reserves as described above ? Is such a binding action necessary ? Can the UK Government not be relied upon to deliver this objective on a voluntary basis and of its own free will ? The answer to these questions is that we believe that the imperative need for this extensive network of HPMRs is so great, and so clearly justified by the evidence and factual record, that there is simply no reason for the UK Government not to accept this responsibility. The Government is duty bound to do so. To act differently, would be an act of denial. Therefore in order to secure the commitment of all future Governments, Parliament needs to place this responsibility, and the associated new system of marine management based on HPMRs, as a legal duty upon the Secretary of State. Parliament and the nation requires a guarantee that this task will be done. A duty in the Marine Bill is this guarantee. Indeed, we hold that if Parliament and the Government believes that this extensive network of HPMRs is vital and essential to the future of our seas, then the Government and Parliament have no logical reason for not delivering this commitment, in the form of a duty upon the Secretary of State, to the nation.

○ MARINET has consulted widely with marine industries (renewable energy, marine aggregates, Crown Estate) and government agencies (Cefas, Natural England, JNCC, OSPAR) to determine the viability of establishing an ecologically coherent network of HPMRs covering 30% of UK seas out to 200 nautical miles. Support for this concept has been widespread, particularly from the point of view of marine industry if we accept that, in most cases, the areas of the sea required by marine industry would not be included with the HPMR boundaries. All parties are happy to accept the principle that UK seas out to 200 nautical miles are vast enough to allow all human uses to coexist at the present time. Thus an extensive network covering 30% of UK seas, aimed at rebuilding marine biodiversity as a whole, can easily be established without trespassing onto the needs of marine industries. In the case of fisheries, the marine reserves will be established to protect the spawning and nursery areas of species and other key areas in their life-cycles. This will continue to allow around 60% of the sea available for fishing and, if fishermen are given a new role as managers and custodians of the marine reserves built around spawning and nursery areas, fishermen will also have a new economic role and function to sustain them. Thus, in the view of MARINET (and many of whom we have consulted), a decision by Government and Parliament to place a duty upon the Secretary of State to create a network of HPMRs covering 30% of UK seas out to 200 nautical miles makes clear environmental, social and economic sense.

○ To deliver all of the foregoing, the Marine Bill should create a Ministry of the Sea with its own Secretary of State at Cabinet level. Such an action would be a clear political statement that the Government and Parliament are committed and will deliver this new system of marine management. This legislative act would ensure that The Treasury delivers the necessary resources and it would, unmistakably, demonstrate to the nation that the tide has changed.

The Adequacy of the Draft Marine Bill.

The question before us here is whether the Draft Marine Bill meets the needs of the marine environment as we have documented them, needs we would add which are widely testified to by many people of far greater knowledge and authority than ourselves.

To answer this question, it may be helpful to first summarise the main features of the Marine Bill as currently proposed:

- Within two years of Royal Assent to the Bill, the Government will issue a Marine Policy Statement. This Statement will establish a "framework of high level objectives" (i.e. the key policies and principles upon which the management of UK seas will be undertaken), and government agencies will be guided in their actions by this Statement. This Statement may be revised at future dates by Government. (Ref Cm 7351, para 3.4).
- The Marine Management Organisation (MMO) will be the Government's strategic delivery body (agency). It will be the marine planning body. It will be the licensing body (with a small number of exemptions in this specific remit). It will be the regulator of most marine activities. It will advise on nature conservation and issue short-term nature conservation enforcement notices. It will work closely with the regional Inshore Fisheries and Conservation Authorities (which replace the regional inshore Sea Fisheries Committees), and it will licence fishing activity under the EU Common Fisheries Policy. In short, it will take decisions according to and in accordance with the Marine Policy Statement (ref. para 3.10).
- The Marine Management Organisation will be created gradually, partly because the Government regards this new management system as "evolutionary", and partly in accordance with the availability of resources. The MMO will prepare a series of regional plans which "draw on spatial information about the marine environment" and its potential uses, and will begin by preparing two regional plans in the first instance. Plans for the other regions will follow in the light of this experience (i.e. will be evolutionary). The MMO will consult with stakeholders in the preparation of these plans, and plans will be reviewed every six years. (ref. 3.44 ff.).
- The date for establishing the Marine Management Organisation is not yet determined (ref. 3.19).
- In respect of nature conservation "the Bill provides the tools needed to designate and protect a network of sites – Marine Conservation Zones (MCZs) – which will provide protected areas covering habitats and species which exist in our seas. MCZs will be both large enough, and close enough together, to support functioning communities of marine wildlife. MCZs will be used to protect areas that are important to conserve the diversity of rare, threatened and representative habitats and species." (ref. 3.78).
- Natural England and JNCC will develop programmes to enable the designation of MCZs by 2012, with social and economic considerations being taken into account in the development of these programmes (ref. 3.79). All MCZs will have conservation objectives, and in some cases the objectives will be stringent enough to effectively make the MCZ a "Highly Protected Marine Reserve" (ref. 3.81). All decisions regarding the actual, final designation of MCZs will be made by the Secretary of State.

So, does the draft Marine Bill measure up to the task and the challenge ?

In answer, let it first be said that this Marine Bill is the first legislation of its kind in living memory, and possibly in the history of this nation. Therefore it can claim a certain uniqueness. In turn, it is unlikely to be repeated in the near future.

Accordingly, its suitability to purpose is clearly a matter of some importance given that it is an opportunity which is unlikely to be repeated soon. Therefore it is an opportunity that should be grasped firmly. Moreover, it is an opportunity that must solve the issues and problems, and not merely tinker with them.

Next, it is clear that Government policy in this matter remains undefined by this Draft Bill. Policy is left to the Marine Policy Statement, and the Bill does not expect to deliver such a Statement until two years after Royal Assent. Therefore how this Government, or any successive Government, believes it will address the issues which we have clearly outlined above remains unknown. In our view, this is not a satisfactory state of affairs. Indeed, it is most unsatisfactory.

This is no time, either in terms of international legal commitments or in terms of the pressing ecological demands of our seas, to be presenting a Bill to Parliament with policy decisions undefined and unstated. On the contrary, the present needs of our seas are urgent and their resolution imperative. Prevarification is to permit continued decline in the health of our seas, and such delay is a very poor decision indeed. Parliament should not accept this.

Further, the genuinely new instruments in this Draft Bill are the Marine Management Organisation and the nature conservation measures centred on Marine Conservation Zones. The degree to which these will deliver a healthier and more sustainable future for our seas depends greatly on the nature of future Marine Policy Statements and the political will and attitude of future Governments. The danger of this uncertainty has already been commented upon, but it also means that the effectiveness of these new instruments is unknown and cannot be determined at the present time. Their future, under this Draft Bill, depends greatly upon future political fickleness.

This uncertainty as to the nature of actual policy has been communicated to us in our discussions with marine industry. They do not know whether to direct government as to the essential nature of their needs, or to wait to see what government determines and decides to dispense. This uncertainty about the future is good for no one. It means that the renewable energy industry, for example, does not know whether government will champion it or ignore it. It means that the offshore fishing industry, for example, does not know whether the government will institute radical policies in order to regenerate its ecological base and hence long-term economic future, or will simply continue to allow the decline in the offshore industry to persist until extinction finally ensues. It means, for example, that the proponents of nature conservation who believe that they possess the one tool (an extensive network of highly protected marine reserves) which can actually deliver a revitalised marine economy in tandem with a full restoration of marine biodiversity, do not know whether there is a game to play for. It means, frankly, that we do not know whether we can deliver on our international commitments under the EU Marine Strategy Framework Directive and other international Conventions. In short, it is a Draft Bill which leaves more uncertain than certain, and more unanswered than answered and clearly known. It leaves us in limbo. This is decidedly not the place that this Draft Bill should be placing us in at this time.

There is no real vision in this Bill. We do not know with any precision how or when the Marine Management Organisation will function. We do not know whether the reform in nature conservation measures will be able to deliver the extensive, ecologically coherent network of marine reserves out to 200 nautical miles which all informed opinion believes is now urgently required. We do not know whether our offshore fishing industry, and the marine ecosystem upon

which its sustainability depends, has a future or is now in terminal, irreversible decline. We do not know whether the reform in licensing for marine industry will deliver greater coherence or a continuation in the incoherent decision-making over the ecological structure and needs of our seas.

There is no real structure in this Bill. The "vehicle of delivery" (the Marine Management Organisation) is an "evolutionary" entity, with no date set for its formation. It is a concept that suggests greater coherence in decision-making, but its ability to deliver this depends greatly upon the proper allocation of real financial resources, a matter that remains indeterminate in this Draft Bill. And, for those who believe in the ecological approach (the ecosystem approach to marine management) there is no structure in this Draft Bill to demonstrate that this philosophy is either understood, let alone likely to be seriously and consistently implemented.

For such evidence to exist, we would need to see the Draft Bill creating the administrative structure at the heart of government capable of delivering such end results. It does not necessarily have to be in the exact form that we have proposed, but unless Parliament and Government creates something equivalent to a Ministry of the Sea with a Secretary of State at Cabinet level, we do not see any evidence that there is either the political will or the political means capable of delivering the "sea change" that is so urgently required in the management of our seas. And, we need to see a duty placed upon the Secretary of State to deliver the marine reserve management system as we have clearly defined it.

Thus with great disappointment, we conclude that this Draft Bill does not really possess a soul, and we conclude that it has little ability to deliver because it has no real spine. We urge Government and Parliament to think long and hard about these deficiencies, and to take steps to remedy them so that Parliament creates an instrument that can both assure our seas, and ourselves, of a sustainable future.

We are not optimistic at the present time. The Joint Committee of The Houses of Parliament which has considered this Draft Bill has denied us an opportunity of an oral hearing, and thus the chance to articulate the reality which we, and many other people, see confronting our seas. Unless Parliament is prepared to listen, to discuss and to understand the evidence which is available, this chance for real change will be lost.

If that chance is lost, it is not just the future of the seas that is in peril, nor simply all those whose livelihood depends upon those seas. It is the future of our nation that will be in peril.

This Draft Bill must change, and we do most earnestly recommend that change as we have represented it to you.

Yours faithfully

S. D. Eades
On behalf of
MARINET.