

[REDACTED]

---

**From:**

**Sent:**

[REDACTED]  
01 October 2017 11:16

**To:**

**Cc:**

**Subject:**

[REDACTED]  
RE: US MMPA - EU Return follow up

Morning [REDACTED]

I'm happy with the changes/additions. I think they all remain relevant.

Thanks for pulling this together.

Regards

[REDACTED]  
[REDACTED]  
Head of Aquaculture Policy Unit

Marine Scotland

Scottish Government Area 1-B North | Victoria Quay | EH6 6QQ

[REDACTED]  
E: +44 (0)131 244 6512

**From:**

[REDACTED]  
**Sent:** 29 September 2017 11:08

**To:**

**Cc:**

[REDACTED]  
**Subject:** RE: US MMPA - EU Return follow up

[REDACTED]  
Thanks for this further detail, pleased that you've asked the wider industry to engage.

I've combined your points into a view on farmed salmon that we will send back to the EU as part of our response to the LOFF. Grateful if you could check whether you are happy. In terms of the original list of questions that has already been submitted to the commission, we will include again in this return, and I have added a couple more, in red, based on your further points. I think most are still relevant, but it may be that some should now be withdrawn:

- **Farmed Salmon:** as this is farmed in nets and not *fished*, there is very little evidence to show that there is any level of incidental marine mammal 'bycatch' in Scottish salmon aquaculture.

The only harm that comes to marine mammals in the industry is in respect to a very minimal level of intentional killing. The seal licencing regime is based on a 'last resort' measure under strict controls; it is only considered necessary to address circumstances where animal welfare or personal safety concerns indicate that to shoot a seal is the only option.

Scottish aquaculture is also different to that in the USA. There are differences in terms of size, product, regulatory regime, environmental challenges (for example, an increasing seal population), environmental protection and also licencing regimes.

This suggests that farmed salmon should be classes as an 'exempt' fishery rather than as an 'export fishery'.

The UK Government and Marine Scotland would be very happy to discuss this further with the US government as necessary.

---

#### Further questions relating to compliance with the Marine Mammal Protection Act

1. Noting information on the NOAA website on how aquaculture net-pen operators in the USA prevent seals and sea lions from being injured or killed in commercial fishing and aquaculture:
2. The UK acknowledge detail provided by the NMFS on how countries will need to go about acquiring a comparability finding and therefore certification to be able to export listed fish products, but **how does the US Government consider the Regulation will work in practice – for example from a National (State), Incorporated Company and individual farm or fishing vessel perspective - including details on the accreditation process?**
3. It is stated that farmed fish will also be included in the MMPA where 'there is a record of entanglement or intentional killing in such aquaculture operations'. **As farmers have a duty of care, is there any difference in enforcement of the MMPA for farmed fish as opposed to wild caught fish?**
4. **Can clarity be provided on whether any exports will be accepted from fisheries subject to a statutory and transparent regulatory licencing regime that permits the controlled shooting of seals as a method of reducing the number of marine mammal fatalities as opposed to unregulated shooting (For example, to prevent damage to equipment or fish where non-lethal methods have proven ineffective or impractical)?**
5. NMFS states that only if human life is in danger will the intentional killing of marine mammals be acceptable; **Are there any situations where circumstances may still remain in which the only appropriate action could be the killing of a marine mammal? I.e. in a scenario where a seal manages to enter a fish farm cage or becomes entangled in anti-predator nets could the intentional killing of that animal be permitted either for animal welfare reasons or to protect the safety of humans engaged in extricating the animal?**
6. If licenced shooting of seals for reasons such as those mentioned in question three is acceptable, **could clarity be provided on the minimum requirements a fishery/aquaculture must meet to comply with the Act and what evidence of compliance would be required?**
7. **Will exports be accepted from fisheries/aquaculture that are licensed to control seals through shooting but do not? What evidence will be required to prove no seals have been killed?**
8. **Can clarity be provided on the process for accepting exports from specific fisheries/aquaculture that comply with the Act within a country that has non-compliant fisheries/aquaculture (i.e. fishery specific accreditation compared to country-wide accreditation)?**

9. In terms of aquaculture, **what kind of methods are employed in the US to prevent seals or sea lions from accessing aquaculture cages and avoid the use of lethal measures?** Further detail and clarity on standards in the US for marine mammal protection would be welcomed, especially in areas where US aquaculture is different to that of aquaculture in the UK and other countries.
10. **It is advised that where a nation is not the catcher, and only the processor of a fish product that is then exported to the USA 'NMFS strongly encourages nations or other entities to identify those products and the source fisheries and nations for those products'. As the UK is a net importer of fish, could more detail be provided on how value added products with fish/ingredients originating from different countries will be treated, must all fishery ingredients have individual certification?**

From: [REDACTED]  
Sent: 28 September 2017 10:47  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: RE: US MMPA - EU Return follow up

Morning [REDACTED]

I had a useful follow up discussion with colleagues yesterday morning, including [REDACTED] our Food and Drink Policy Team (copied in). I also understand it became apparent at the regulatory expert group meeting at Seafish yesterday afternoon and that [REDACTED] Marine Env. Consultant) has been leading on this with SFLA. Like all, we are endeavouring to ensure that awareness of this Regulation and its wider implications is being picked up by the relevant impacted sectors. I am particularly unclear how Regulations will impact value added products and the wider provenance issues that this involves. Have you had much feedback around this aspect of the Regulation?

On the various points you have outlined below:

We have now shared the document with the various sectors and encouraged them to engage with the additional consultation period.

From an aquaculture perspective this will be an agenda item at our quadrilateral discussions in Canada next month. I will endeavour to feed back any emerging points.

On the argument that aquaculture sector in the United States is not analogous to that of the UK (Scotland), we would argue that the differences are around the size, the product, the regulatory regime, the differing environment challenges (not least an increasing seal population), and a long standing licensing regime; and our commitment to environmental protection.

There is little evidence of incidental marine mammal bycatch in Scottish salmon aquaculture, which suggests that it should be classed as an 'exempt' fishery. In respect of the intentional killing, the seal licensing regime is based on a last resort measure under strict controls and it is considered necessary to address circumstances where animal welfare or personal safety concerns indicate this is the only option.

I would be keen for the UK to be able to engage direct with the US, not least because of our unique makeup and the fact that this has implications for how they ultimately define a fishery, particularly in relation to our

sea fisheries community (ie how that is defined from a UK perspective would likely be different if it were looked at from a Scotland only perspective).

Regards

[REDACTED]  
[REDACTED]  
Head of Aquaculture Policy Unit

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**From:** [REDACTED]  
**Sent:** 22 September 2017 15:08  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: US MMPA - EU Return follow up

[REDACTED]  
Thanks. The working group I mentioned was a general fisheries meeting that was attended by UKREP.

In terms of opportunity to comment and see the paper for the sector, I'm not sure how far it can be shared. The document does towards the end say in the section on Request for Input that they are 'interested in receiving public comment and supporting documentation' to a series of questions, so I would imagine that it is possible to share further. I will just check with UKREP though to be sure.

Thanks for your comments as well. I'm going to forward these on to UKREP to add to the initial list of questions that we sent.

In terms of the 'LOFF', farmed salmon is classed as an 'export' fishery rather than an 'exempt' fishery. Is there anything you more you want to feed in on the LOFF classification in particular?

Please do let me know when the meeting with Canada will take place.

Have a good weekend,

[REDACTED]  
**From:** [REDACTED]  
**Sent:** 22 September 2017 11:48  
**To:** [REDACTED]  
**Cc:** [REDACTED]

[REDACTED]  
Subject: RE: US MMPA - EU Return follow up

Morning, [REDACTED]

Many thanks for sharing. I would be interested to learn know more about the working group you reference in your response.

On the paper itself, it is helpful to note that there appears to be a recognition that further 'consultation' would be of benefit, although I am not clear if that offer has been extended to the sector. That is, would our aquaculture representative body, as an example, have both access to the document you have forwarded and the opportunity to comment? I am sure they will ask me.

I have a few observations.

(A)

'Under this rule, fish or fish products cannot be imported into the United States from commercial fishing operations, which result in the incidental mortality or serious injury of marine mammals in excess of United States standards' – *I would welcome clarity on what these standards might be, not least because the aquaculture sector in the United States is not analogous to that of the UK (Scotland) or indeed for many of the other nations (on which I was surprised that Norway was only fleetingly mentioned and not as part of the Table at page 39774). I noted the NOAA web-site and what it says about marine mammal measures at US aquaculture sites, namely :*

#### **11. What do aquaculture net-pen operators do to prevent interaction with marine mammals?**

The primary deterrent is the use of predator nets. These nets are hung outside of the net-pens and are made of a large, strong mesh that the predator cannot bite through. Bull rails (knee high fences developed by marine mammal biologists to keep sea lions off of docks) are also used to discourage marine mammals from getting onto net pen structures. In extreme cases an electric fence is added to the bull rails.

The Marine Mammal Protection Act (MMPA) prohibits the intentional shooting of marine mammals in commercial fishing operations, which includes aquaculture farms.

*This suggests to me that while we could potentially and if necessary strengthen some of our licensing conditions to be more akin to the US approach, circumstances still remain where the most appropriate action to be taken could be the shooting of the mammal. Presumably that remains the view of NOAA – ie in a scenario where a seal manages to enter a fish farm cage or becomes entangled in anti-predator nets would the US regulations permit the intentional killing of that animal either for animal welfare reasons or to protect the safety of humans engaged in extricating the animal*

(B)

'For all fisheries, in order to receive a comparability finding under this program, the harvesting nation must prohibit intentional killing of marine mammals in the course of commercial fishing operations in the fishery or demonstrate that it has procedures to reliably certify that exports of fish and fish products to the United States were not harvested in association with the intentional killing or serious injury of marine mammals' *We would contend that our legislation prohibits all intentional killing of cetaceans and seals on principle. Part 6 of the of the Marine (Scotland) Act 2010 seeks to balance seal conservation with sustainable fisheries and aquaculture. Key elements are that it is an offence to kill or injure a seal except under limited licence with strict conditions or for welfare reasons and a seal licensing system, providing a well-regulated and monitored context for seal management in Scotland based on a strict PBR system. Licences are provided in two distinct categories – Health and Welfare of Farmed Fish and the Prevention of Serious*

*Damage. I think that would then put us -- Scotland - into the 'exempt fishery' category for aquaculture, assuming that determination is undertaken on a national (UK?) perspective.*

(C)

'Are aquaculture operations included under these regulations?

Yes. The regulatory definition of a commercial fishing operation includes aquaculture. A comparability finding is required for the import of fish and fish products harvested in an aquaculture facility. NMFS will classify foreign aquaculture operations that operate in marine mammal habitat as exempt or export fisheries using the same criteria as for other fisheries (i.e., based on the level of incidental marine mammal bycatch) - *again aquaculture practice in Scotland is not similar/comparable to commercial fisheries and consequently has no level of incidental marine mammal by catch - they are farming as opposed to fishing.*

More generally:

- I would still welcome clarification of the term 'fishery' and how that would be/it is envisaged it will be applied in an aquaculture context -- national, company or farm by farm level.
- Comparability finding On the basis that this appears to be a requirement irrespective of how you are classed, presumably this would be done on a country by country basis. That being the case, are we (the UK) at liberty to engage with NOAA directly on these matters at an early stage?

On a related point, I should explain that our Canadian colleagues have asked for a discussion on the MMPA in advance of the October Quad session in Victoria, British Columbia. They have suggested sometime next week - September 27-29. I will forward an invite once we have confirmed timings etc.

I hope that is helpful.

Regards

[REDACTED]  
[REDACTED]  
Head of Aquaculture Policy Unit  
Marine Scotland  
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**From:** [REDACTED]  
**Sent:** 21 September 2017 10:14  
**To:** [REDACTED]  
**Subject:** Re: US MMPA - EU Return follow up

[REDACTED]  
That's fine, I've attached below.

I've also now submitted the list of questions you contributed to off the back of, and acknowledging the extra info given in the publication (there was working group meeting the other day that in part discussed the MMPA, where our questions were flagged).

I'd be interested to hear your views.

Thanks,

[REDACTED]  
**From:** [REDACTED]  
**Sent:** 19 September 2017 15:48  
**To:** [REDACTED]  
**Subject:** RE: US MMPA - EU Return follow up

[REDACTED]  
With apologies but my best endeavours have failed and I seem unable to access the document in question. I don't have log in details and when I tried to register, I don't think I qualify.

Would it be possible for you to send me a copy, please.

Sorry to be a pain.

Regards

[REDACTED]  
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29<sup>th</sup> Aug - 2<sup>nd</sup> Sept 2017



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**From:** [REDACTED]  
**Sent:** 14 September 2017 15:31  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: US MMPA - EU Return follow up

Last week we saw a publication from the Commission (third link on the below list) regarding the MMPA.

The document does provide some further detail on the implementation of the MMPA, and also invites further comment on some of the aspects. It answers some but not all of our questions, and perhaps poses some new questions as well.

We will need to take this into account in terms of how we go forward. Perhaps responding to the request for comment, alongside any of our outstanding questions rather than writing to the commission independently as originally planned.

We would also be grateful for your views on the 'LOFF' they have introduced and other questions posed in the publication.

Many thanks,



DELEGATES PORTAL

## Community notification

Document(s) registered  
between September 3, 2017 20:09 and September 4, 2017 20:00

### Documents that have been published recently

#### Working Party on Internal And External Fisheries Policy

 **ST 11671 2017 INIT**

INTERNAL AND EXTERNAL FISHERIES POLICY | (05 Sep 2017);

[Preparation of the Annual meeting of GFCM \(Montenegro, 16-20 October 2017\)](#)

Original Language: EN Language: EN

Acronyms: PECHE;

 **ST 11858 2017 INIT**

INTERNAL AND EXTERNAL FISHERIES POLICY | (05 Sep 2017);

[Non paper - 39th Annual Meeting of the Northwest Atlantic Fisheries Organisation \(NAFO\), Montreal, Canada, 18-22 September 2017](#)

Original Language: EN Language: EN

Acronyms: PECHE;

 **WK 8904 2017 INIT**

INTERNAL AND EXTERNAL FISHERIES POLICY | (15 Sep 2017);

Draft List Of Foreign Fisheries (LOFF) under the U.S. Marine Mammal Protection Act

Original Language: EN Language: EN

Acronyms: PECHE;

 **WK 8941 2017 INIT**

GFCM technical meeting, Brussels, 14 September 14:00 - 18:00

Original Language: EN Language: EN

Acronyms: PECHE;

 **WK 8942 2017 ADD 1**

EU-Norway: Consultations concerning technical measures in Skagerrak - Gothenburg, Sweden, 5-6 September 2017

Original Language: EN Language: EN

Acronyms: PECHE;

 **WK 8942 2017 INIT**

EU-Norway: Consultations concerning technical measures in Skagerrak - Gothenburg, Sweden, 5-6 September 2017

Original Language: EN Language: EN

Acronyms: PECHE;

## Meeting changes for your communities

Only confirmed sessions are listed. Changes are highlighted.



### INTERNAL AND EXTERNAL FISHERIES POLICY Session updated

Location: JL  
Room: 35.4

AM: N  
PM: 14:30-18:30

Evening: N  
Late evening: N

Lunch: N  
Dinner: N

**From:** [REDACTED]  
**Sent:** 30 August 2017 09:43  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: US MMPA - EU Return follow up

Hi Jeff,

Sorry for the delayed response, I was away from the office last week. Thanks for adding some detail to the below questions.

We're looking to get a letter off soon and will keep you updated on progress.

If you have any questions in the meantime, let me know.

Thanks,

**From:** [REDACTED]  
**Sent:** 21 August 2017 15:22  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: US MMPA - EU Return follow up

Afternoon [REDACTED]

Many thanks for the opportunity to comment.

I have added/made a few suggestions as detailed below.

Useful perhaps to note that colleagues from Chile, Canada and Norway, who we met at AquaNor (Trondheim) last week, shared similar frustrations at the absence of any immediate clarity.

Happy to discuss.

- How does the US Government consider the Regulation will work in practice – for example from a National (State), Incorporated Company and individual farm or fishing vessel perspective - including details on the accreditation process?
- As farmers have a duty of care, will farmed fish (e.g. salmon) be treated differently to wild caught fish (salmon, cod, haddock etc.)?
- Can clarity be provided on whether any exports will be accepted from fisheries/aquaculture subject to a statutory and transparent licencing regime that permits the controlled shooting of seals (For example, to prevent damage to equipment or fish where non-lethal methods have proven ineffective or impractical)?

Are the Regulations saying that there are absolutely no circumstances where it would consider the shooting of seals to be justified? For example, if a seal manages to penetrate a fish cage or fishing net and cannot thereafter be safely or humanely removed, is it permitted to kill the animal without infringing the regulations?

- If licenced shooting of seals is acceptable, could clarity be provided on the minimum requirements a fishery/aquaculture must meet to comply with the Act and what evidence of compliance would be required?
- Will exports be accepted from fisheries/aquaculture that are licensed to control seals through shooting but do not exercise that right? What evidence will be required to prove no seals have been killed?

- What evidence will be required to prove exports meet the requirements of the Act (e.g. proof of origin, by-catch assessments, licences etc)? How will this be verified?
- Can clarity be provided on the process for accepting exports from specific fisheries/aquaculture that comply with the Act within a country that has non-compliant fisheries/aquaculture (i.e. fishery specific accreditation compared to country-wide accreditation)?
- In terms of aquaculture, what methods are employed in the US to prevent seals or sea lions from accessing aquaculture cages and avoid the use of lethal measures?
- The UK is a net importer of fish, how will value added products with fish/ingredients originating from different countries be treated, must all fishery ingredients have individual certification?

Regards

[Redacted]

[Redacted]

Interim Head of Aquaculture Policy Unit

Marine Scotland

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29<sup>th</sup> Aug - 2<sup>nd</sup> Sept 2017



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**From:** [Redacted]  
**Sent:** 17 August 2017 16:08  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** FW: US MMPA - EU Return follow up

[Redacted]

Regarding your email to [Redacted] below, I have been drafting a letter to the European Commission to request further clarification from the US government on the MMPA.

We have compiled a list of questions for the US government, and I wanted to check that you think these should provide answers to the main areas of uncertainty from your point of view:

- How does the US Government consider the Regulation will work in practice, including details on the accreditation process?

- Will farmed fish (e.g. salmon) be treated differently to wild caught fish?
- Can clarity be provided on whether any exports will be accepted from fisheries subject to a licencing regime that permits the controlled shooting of seals (For example, to prevent damage to equipment or fish where non-lethal methods have proven ineffective or impractical)?
- If licenced shooting of seals is acceptable, could clarity be provided on the minimum requirements a fishery must meet to comply with the Act and what evidence of compliance would be required?
- Will exports be accepted from fisheries that are licensed to control seals through shooting but do not? What evidence will be required to prove no seals have been killed?
- What evidence will be required to prove exports meet the requirements of the Act (e.g. proof of origin, bycatch assessments, licences etc.)?
- Can clarity be provided on the process for accepting exports from specific fisheries that comply with the Act within a country that has non-compliant fisheries (i.e. fishery specific accreditation compared to country-wide accreditation)?

Please do let me know if you think that there are some questions missing from this list so that we can look to include them before sending the letter.

I will be out of the office from Tuesday for one week and will look to send these questions on my return, so please pass on any further points for inclusion or changes before then.

Many thanks,

From: [REDACTED]  
 Sent: 12 July 2017 08:28  
 To: [REDACTED]  
 Cc: [REDACTED]  
 Subject: RE: FOR ACTION - US MMPA - Fisheries Working Group, 23 February 2017 - note

Morning, [REDACTED]

Given the uncertainties about the way forward and the immediate concerns that this is creating for the sector here (and I have received a further call today from our biggest company), I think it would be helpful if we were able to obtain something more definitive and in writing from the US (presumably NOAA) that outlines how they consider the Regulation will work in practice (including the accreditation process). Most particularly, are they absolutely clear that they will not consider any licensing regime that permits, in any circumstances, the shooting of mammals, to be acceptable. This is important as it will feature during our meeting/discussions with colleagues from Canada, Chile, and Norway later this year.

While I appreciate the lead in period for these Regulations might not appear to be a cause of immediate concern, we would welcome clarity on these points so we can determine how best to move forward, including the need to look at innovative and alternative seal management techniques. I suspect some of the other member states will have similar concerns. At the very least it will provide the sector with evidence that we are doing our best to be proactive in seeking solutions going forward.

Is that something you would be willing to pursue, please?

Regards

[REDACTED]  
[REDACTED]  
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29<sup>th</sup> Aug - 2<sup>nd</sup> Sept 2017



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**From:** [REDACTED]@GOV.UK]  
**Sent:** 26 June 2017 10:31  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: FOR ACTION - US MMPA - Fisheries Working Group, 23 February 2017 - note

[REDACTED]  
I have not heard anything more on this since we sent in the UK return. I understand this went off with other MS returns alongside the attached letter but no response has been received yet. Looking ahead - I guess our priority has to be to ensure that a) we have reported all of our relevant fisheries and b) we have the evidence to support the fact that all of our exports to the US are derived from fisheries that are comparable with regards their monitoring, assessment, and mitigation regimes. If it works like their turtle bycatch legislation then they look for country accreditation (which could result in the situation mentioned by your industry) but they do have the option for fishery specific accreditation which would mitigate that risk. So I suspect this is all derived from uncertainty surrounding the details of implementation by the US. Unfortunately I can't provide any greater re-assurances than that at the moment.

Many thanks,

[REDACTED]  
  
Department  
for Environment  
& Rural Affairs

[REDACTED]  
Head of International Fisheries and Marine Species Protection Team  
Fisheries and Conservation  
Department for Environment Food & Rural Affairs  
9 Millbank | c/o Nobel House | 17 Smith Square | London SW1P 3J  
[REDACTED]  
[REDACTED]

**From:** [REDACTED]  
**Sent:** 23 June 2017 10:27  
**To:** [REDACTED]  
**Subject:** FW: FOR ACTION - US MMPA - Fisheries Working Group, 23 February 2017 - note

[REDACTED]  
Please see below - can you help?

Regards

[REDACTED]  
[REDACTED]  
Interim Head of Aquaculture Policy Unit  
Marine Scotland  
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29<sup>th</sup> Aug - 2<sup>nd</sup> Sept 2017



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**From:** [REDACTED]  
**Sent:** 16 June 2017 07:40  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Re: FOR ACTION - US MMPA - Fisheries Working Group, 23 February 2017 - note

[REDACTED]  
I'm on leave this week but [REDACTED] should be able to help/update on latest developments.  
Thanks

[REDACTED]  
Sent from my iPhone

On 15 Jun 2017, at 17:20, [REDACTED] wrote:

[REDACTED]  
Grateful if we could discuss, please.

I am in from 7.45 ish in the morning.

Regards

[REDACTED]

[REDACTED]

Interim Head of Aquaculture Policy Unit  
Marine Scotland  
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[REDACTED]

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<image002.png><image003.png>  
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**From:** [REDACTED]  
**Sent:** 09 June 2017 16:05  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: FOR ACTION - US MMPA - Fisheries Working Group, 23 February 2017 - note

Afternoon [REDACTED]

Grateful for any update to my email below, please – especially on the second para. I have a further email in from our sector seeking the latest thinking/position in the discussions.

Regards

[REDACTED]

[REDACTED]

Interim Head of Aquaculture Policy Unit  
Marine Scotland  
Scottish Government | Area 1-B North | Victoria Quay | EH6 6QQ

[REDACTED]

F: +44 (0)131 244 6512  
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29<sup>th</sup> Aug - 2<sup>nd</sup> Sept 2017

<image002.png><image003.png>  
[www.scotlandsalmonfestival.org](http://www.scotlandsalmonfestival.org)

**From:** [REDACTED]  
**Sent:** 19 May 2017 14:13  
**To:** [REDACTED]

Cc: [REDACTED]

Subject: RE: FOR ACTION - US MMPA - Fisheries Working Group, 23 February 2017 - note

Afternoon [REDACTED]

I am not sure if I have seen a copy of the final response which issued from the EU (would you be able to send me a copy please), but I wondered if there has been any update, please?

Colleagues here in the aquaculture sector are becoming increasingly concerned as their interpretation (which I don't share) of the legislation suggests any issue of a licence/ deployment of that licence would effectively impact on all exporters in Scotland, irrespective of which farm/company were responsible.

Is this a matter which the UK/EU delegation should pursue at NASCO next month -- specific meeting with the US rep perhaps?

Regards

[REDACTED]

[REDACTED]

Interim Head of Aquaculture Policy Unit

Marine Scotland

Scottish Government | Area 1-B North | Victoria Quay | EH6 6QQ

[REDACTED]

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<image001.jpg>

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<image002.png><image003.png>

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From: [REDACTED]

Sent: 12 April 2017 15:01

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOR ACTION - US MMPA - Fisheries Working Group, 23 February 2017 - note

[REDACTED]

The return has been sent, attached for information. We are having a telecom with the FCO tomorrow regarding developments; I will provide an update following the discussion.

Thanks

[REDACTED]

From: [REDACTED]

Sent: 12 April 2017 14:21

To: [REDACTED]

From: [REDACTED]

Subject: RE: FOR ACTION - US MMPA - Fisheries Working Group, 23 February 2017 - note

Afternoon [REDACTED]

I am anticipating that we may have a portfolio question on this matter when the Parliament resumes next week. Grateful therefore if you could provide me with an update on where matters rest, please – I assume a response issued to the EU?

Regards

[REDACTED]

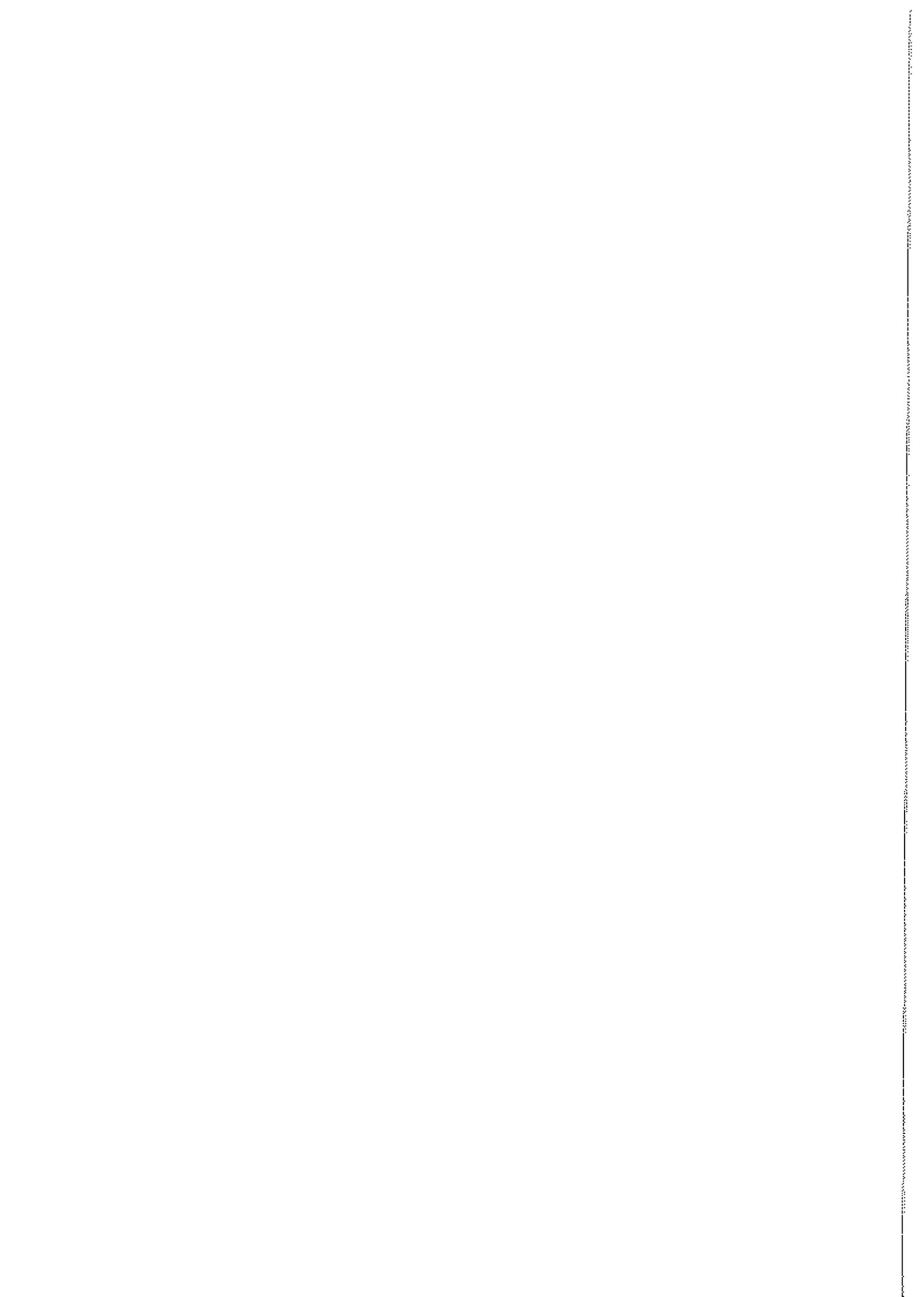
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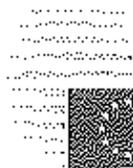
Interim Head of Aquaculture Policy Unit  
Marine Scotland  
Scottish Government | Area 1-B North | Victoria Quay | EH6 6QQ

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F: +44 (0)131 244 6512  
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29<sup>th</sup> Aug - 2<sup>nd</sup> Sept 2017

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[www.scotlandsalmonfestival.org](http://www.scotlandsalmonfestival.org)





Council of the European Union  
General Secretariat

**Brussels, 04 September 2017**

**WK 8904/2017 INIT**

**LIMITE**

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**NOTE**

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<b>From:</b>	General Secretariat of the Council
<b>To:</b>	Delegations
<b>Subject:</b>	Draft List Of Foreign Fisheries (LOFF) under the U.S. Marine Mammal Protection Act

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Delegations will find attached a note on the above-mentioned subject, as received from the European Commission services. This note includes:

- a message from the National Oceanic and Atmospheric Administration;
- the draft list of Foreign Fisheries (LOFF) under the US Marine Mammal Protection Act (MMPA);
- MMPA Import rule compliance guide;
- MMPA Import rule Factsheet.

Subject: Draft List Of Foreign Fisheries (LOFF) under the U.S. Marine Mammal Protection Act

Dear All,

Last week, NOAA Fisheries published the draft List Of Foreign Fisheries (LOFF) under the U.S. Marine Mammal Protection Act (MMPA).

The U.S. National Marine Fisheries Service (NMFS) seeks your comments on this draft LOFF which is an essential component in implementing the MMPA Import Provisions Rule.

The LOFF comprises the list of fisheries identified by NMFS as the source of exports of fish and fish products to the United States and categorizes such fisheries, based on the frequency of marine mammal interactions or bycatch, as either "export" or "exempt" fisheries. "Exempt" fisheries are those that have no known or a remote likelihood of marine mammal bycatch and are exempt from instituting a regulatory program. "Export" fisheries are those with more than a remote likelihood of marine mammal bycatch or insufficient information available on marine mammal interaction.

The draft LOFF includes 720 exempt fisheries and 3,270 export fisheries. To view the full draft LOFF, please go to:

[www.nmfs.noaa.gov/ia/species/marine\\_mammals/mmpaloff.html](http://www.nmfs.noaa.gov/ia/species/marine_mammals/mmpaloff.html). For more information on the draft LOFF and how it was developed, please see the attached Federal Register Notice.

For an "export" fishery, the exporting nation must obtain a comparability finding for that fishery demonstrating that the regulatory measures to minimize the incidental mortality and serious injury of marine mammals in that fishery are comparable to measures taken by the United States. Exempt fisheries must also obtain a comparability finding, but it is limited to only those conditions related to the prohibition of *intentional* killing or injury of marine mammals.

NMFS will consider all comments and information received during the comment period (**from 22 August 2017 to 21 October 2017**) in preparing a final LOFF, which NMFS aims to publish in **January 2018**.

NMFS will also seek direct input from nations with fisheries included in the draft LOFF at bilateral and multilateral meetings, as appropriate.

Following the publication of the final LOFF, NMFS, in conjunction with the Department of State, will consult with harvesting nations and, to the extent possible, consider engaging in a capacity building program to assist with monitoring and assessing marine mammal stocks and bycatch and to reduce that bycatch.

To ensure effective implementation, the MMPA Import Provisions Rule established a 5-year exemption period to allow foreign harvesting nations time to develop, as appropriate, regulatory programs comparable in effectiveness to U.S. programs.

Please contact Ms. Nina Young ([MMPA.LOFF@noaa.gov](mailto:MMPA.LOFF@noaa.gov)) in NMFS's Office of International Affairs and Seafood Inspection to request additional information about this request for input from your host government or authorities.

Draft I.OFF:

[www.nmfs.noaa.gov/ia/species/marine\\_manuals/mmpa/loff.html](http://www.nmfs.noaa.gov/ia/species/marine_manuals/mmpa/loff.html)

Final Rule Federal Register Notice:

<https://www.gpo.gov/fdsys/pkg/FR-2016-08-15/pdf/2016-19158.pdf>

Federal Register Notice announcing Draft I.OFF:

[www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0084](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0084)

General Information:

[http://www.fisheries.noaa.gov/ia/slider\\_stories/2016/08/mmpafinalrule.html](http://www.fisheries.noaa.gov/ia/slider_stories/2016/08/mmpafinalrule.html)

