

Environment, Climate Change and Land Reform Committee

EU Environmental principles

Written submission from Salmon and Trout Conservation Scotland

Salmon & Trout Conservation Scotland believes strongly that it is important to preserve the EU environmental principles - the precautionary principle, preventive action, that environmental damage should as a priority be rectified at source, and that the polluter should pay - that have underpinned legislation and policy making in Scotland. It is entirely appropriate to retain, by enshrining in Scottish law, these EU principles in law.

The Committee specifically asked for examples of how and where have these principles had an impact on environmental policy in Scotland.

S&TCS would point to two examples which show:

- (i) how the application of the precautionary approach has already protected wild Atlantic salmon populations from rivers designated as Special Areas of Conservation (SACs) under the EU Habitats Directive, which were previously subject to uncontrolled exploitation in mixed stock fisheries that used coastal fixed engine nets; and
- (ii) how the application of both the precautionary principle and the polluter pays principle is in the process of controlling the negative impact on wild salmonids from salmon farming.

Mixed stock fisheries

For many years running up to 2016, S&TCS pointed out that Scotland had (and still has) legal obligations under the Habitats Directive to protect Atlantic salmon populations of all SACs in Scotland designated under the Habitats Directive for the protection of Atlantic salmon.

Seventeen Scottish rivers are designated under the Habitats Directive as Special Areas for Conservation (SACs), forming part of the Natura 2000 network, where the qualifying interests include the freshwater stages of Atlantic salmon.

Specifically, S&TCS argued that populations of wild salmon from SAC rivers were under threat from Mixed Stock Fishery coastal netting of salmon, which were being pursued on the basis of historic inherited property rights relating to the use of coastal fixed engine nets and that, of particular concern, such nets were being 're-opened' without any appropriate assessment of the impact on the integrity of those SACs.

That was contrary to Article 6(3) of the Habitats Directive, which the European Court of Justice has identified has a strict precautionary basis, and which has to be interpreted by reference to Article 174(2) of the Treaty, which itself establishes the precautionary principle as one of the foundations of the high level of protection pursued by Community policy on the environment.

In 2014, S&TCS submitted a formal complaint to the Commission of the European Communities concerning the failure to comply with the Habitats Directive with particular reference to coastal commercial netting of salmon¹.

After considering the matter, including with the European Commission, in September 2015, the Scottish Government announced that it was to prohibit the taking of Atlantic salmon out-with inland waters for the three years from 2016 to 2018 inclusive. This it did by way of the Conservation of Salmon (Scotland) Regulations 2016.

In other words, to the Scottish Government's great credit, on the basis of the precautionary principle, coastal salmon netting was banned with immediate effect. That ban remains in place today to the benefit of wild Atlantic salmon populations on SACs rivers and it adds to the protection needed to allow the overall status of Atlantic salmon across Scotland to recover.

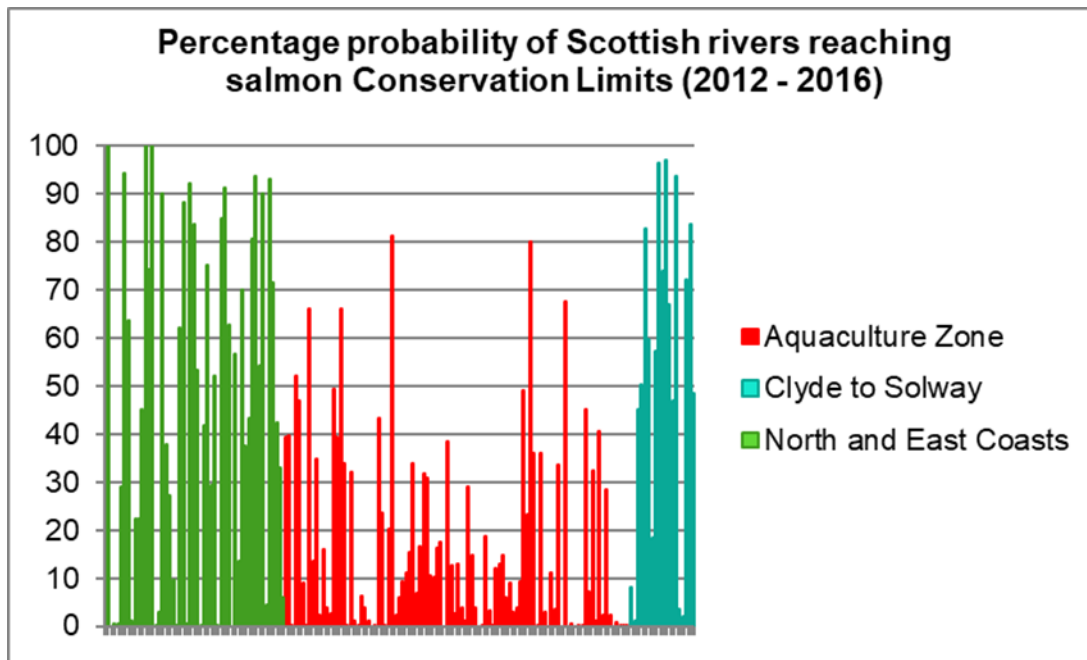
S&TCS believes firmly that no such ban would have been achieved in Scotland without the application of the precautionary principle under EU law.

Salmon farming

S&TCS is clear that expansion of salmon farming in Scotland has been too rapid, without thought, and therefore not within the carrying capacity of the environment as a whole. Particularly, S&TCS does not believe that the industry can continue over the medium to long-term to farm in open cages without further harming significantly wild salmon and sea trout populations. The industry can however move to closed containment, where it can prosper.

The effect of open cage salmon farming on wild salmon stocks is of great concern. The graph below shows the percentage chance that the Conservation Limit has been reached in Scotland's salmon rivers, using data published by Marine Scotland Science in The Application of Conservation Limits for Atlantic Salmon by Region – see <http://www.gov.scot/Topics/marine/Salmon-Trout-Coarse/fishreform/licence/status/limits>. Starting, at the left, with the Tweed, the graph proceeds 'anti-clockwise' around Scotland, ending in the Solway. The Hebrides are included in the red 'Aquaculture Zone' after Cape Wrath.

¹ <https://www.salmon-trout.org/wp-content/uploads/2017/10/EC-Netting-Complaint-FINAL-June-2014-v2.pdf>



What the graph shows is that the great majority of rivers within the ‘Aquaculture Zone’ of the west Highlands and Hebrides are in the worst-performing Category 3, and that the main ‘Aquaculture Zone’ includes a markedly disproportionate concentration of rivers which are far below the 60% probability level (of producing sufficient salmon eggs) required to lift them into Category 2.

While S&TCS recognises both the range of other threats to wild salmonid populations, and the shortcomings of the Conservation Limits approach, wild salmon stocks in rivers in the Aquaculture Zone are in a disproportionately poor state, as compared to stocks outside that Aquaculture Zone.

That is why S&TCS recently welcomed wholeheartedly the ECCLR Committee’s Report into the Environmental Impacts of Salmon Farming.

S&TCS particularly noted and welcomed the inclusion in the ECCLR Report of very many references to the importance of the precautionary principle in guiding the future of the industry, for example:

“There appears to have been too little focus on the application of the precautionary principle in the development and expansion of the sector”.

“Scotland’s public bodies have a duty to protect biodiversity and this must be to the fore when considering the expansion of the sector. We need to progress on the basis of the precautionary principle and agencies need to work together more effectively.”

“The Committee is supportive of aquaculture, but further development and expansion must be on the basis of a precautionary approach and must be based on resolving the environmental problems. The status quo is not an option.”

Therefore the ECCLR Committee’s own work shows just how important the precautionary principle is to protecting the wider Scottish environment.

Further, in relation to the polluter pays principle, as recent Oral Evidence given to the Rural Economy and Connectivity Committee shows², Scottish salmon farming has benefited massively from being almost unique for a large industry, that by not having to internalise the external environmental costs of what it does – e.g. the impact of sea lice on wild fish, benthic pollution under cages, genetic introgression of wild stocks by escapee farmed fish, negative interactions with sea birds, marine mammals and cetaceans (for example, by the use of Acoustic Deterrent Devices), landscape impacts caused by the siting of farms in highly scenic, often protected locations, and problems with over-harvesting of wild feed source species.

The ECCLR Report had already recognised that the industry is now at a stage where those costs must be internalised, stating that “*the industry needs to take full responsibility for all environmental costs of production. This would not be acceptable in any other sector and the Committee questions why this has been allowed to happen in the development and expansion of the salmon farming industry*”.

Overall, S&TCS anticipates that both the precautionary principle and polluter pays principle will strongly influence the thinking that the REC Committee over the next few weeks and that these principles will be reflected, to the benefit of the conservation of nature in Scotland and the sustainable management of the Scottish environment as a whole, in the Report the REC is due to publish at the conclusion of its Inquiry into Salmon Farming in Scotland.

² See Oral Evidence to REC Committee 14th March 2018.