



House of Commons

Environment, Food and Rural  
Affairs Committee

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# **Marine Environment**

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**Sixth Report of Session 2003–2004**





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written evidence*

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## Environment, Food and Rural Affairs Committee

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A list of Reports of the Committee in the present Parliament is at the back of this Report.

### Committee staff

The current staff of the Committee are Gavin Devine (Clerk), Fiona McLean (Second Clerk), Dr Kate Trumper and Jonathan Little (Committee Specialists), Andy Boyd and Louise Combs (Committee Assistants), Anne Woolhouse (Secretary) and Rebecca Flynn (Intern).

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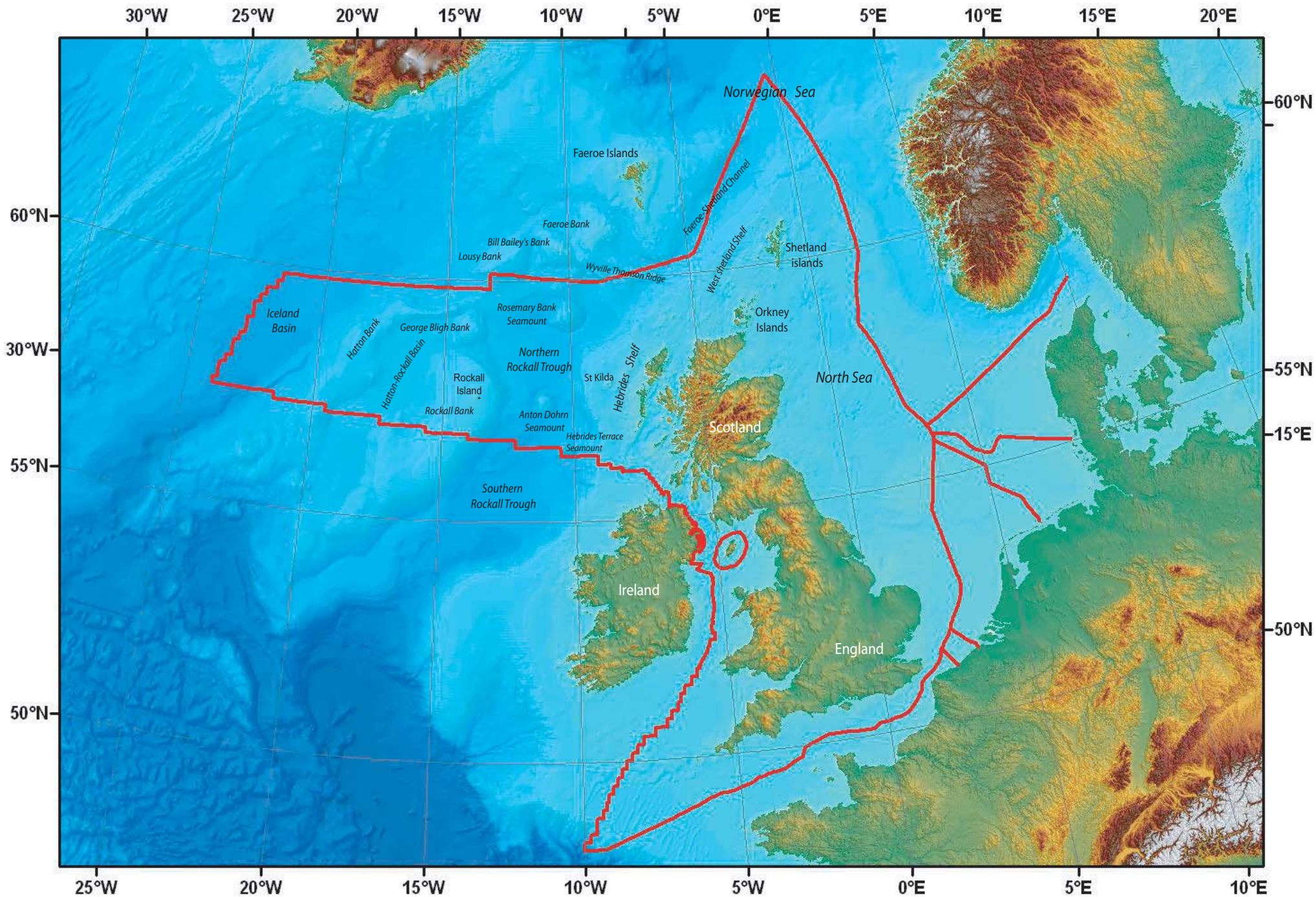


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## Summary

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The seas around the United Kingdom are important for economic activities such as transport, energy extraction, recreation and fishing, and for their biodiversity, which may equal or exceed that on land. But there is evidence that marine habitats and species are being damaged by human activities at sea.

Protection of the marine environment has lagged behind that of the terrestrial environment. In view of the increasing demands we place on the seas, it is imperative that urgent action is taken to prevent further decline in the marine environment. The Government needs to show how it will in practice deliver its vision of marine stewardship.

The current legislative and institutional framework governing marine environmental protection is too fragmented and complex, which is to the detriment of both economic development and environmental protection. The Government is reviewing arrangements both for marine nature conservation and for licensing for development, which we welcome. There is a pressing need to update and streamline both and it may be necessary to do so through a wide-ranging Marine Act. A marine spatial planning system may prove necessary in order to manage the wide array of activities at sea.

Adequate protection of the marine environment can only be achieved on the basis of a sound understanding of marine ecosystems. The Government must ensure that the excellent work carried out in our universities and research institutions can continue and that data management is improved so that best use can be made of existing information.

The current patchwork of national, European and international laws, Directives and agreements is not fully capable of providing proper protection for the marine environment in the 21<sup>st</sup> century, subject as it is to increasing commercial exploitation.



# 1 Introduction

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1. The United Kingdom's seas cover a vast area—three times that of the land—and may contain half of the nation's species.<sup>1</sup> They are also important for our economy in providing opportunities for transport, energy production (both from oil and gas and from renewable sources), aggregates extraction, fishing and other industries. However, there is clear evidence that marine ecosystems are increasingly being damaged by human activities, both at sea and on land.<sup>2</sup> Unlike on land, public understanding and perception of marine environmental problems is constrained because people cannot easily see the amount of damage that occurs.

2. There has been considerable discussion about the efficacy of current efforts to protect the marine environment. In 2001, John Randall MP introduced a Private Members' Bill which aimed to address inadequacies of marine nature conservation. The Bill attracted a certain amount of Government support. It passed all its stages in the Commons but fell in the Lords. Previous Parliamentary scrutiny has also highlighted shortcomings in marine environmental protection. As a Committee, we have considered marine environmental protection issues in the course of our inquiries into reform of the Common Fisheries Policy and into cetacean by-catch.<sup>3</sup> Our predecessor, the Environment, Transport and Regional Affairs Committee, in a report on UK biodiversity, concluded that

the Government must address the range of problems and inadequacies in their approach to marine biodiversity. As an island nation, the conservation of marine biodiversity should be paramount and the Government should consider whether a new statutory agency is required to deal with marine biodiversity issues.<sup>4</sup>

3. Since then there have been a number of reviews and, perhaps most importantly, the Government published its first Marine Stewardship Report, which set out its intentions for the marine environment.<sup>5</sup> Therefore, we decided it would be timely to conduct an inquiry into the marine environment and Government policies in relation to it. Our terms of reference were

to examine the effectiveness and urgency with which the Government is pursuing policies for the protection of the marine environment, and what institutional or other barriers exist which might hinder the implementation of policies in this area. In particular the Committee will consider:

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<sup>1</sup> Q1

<sup>2</sup> R.Covey and D. d'A. Laffoley, *Maritime State of Nature Report for England: getting onto an even keel* (English Nature, Peterborough 2002), OSPAR Commission 2000 *Quality Status Report 2000* (OSPAR Commission, London 2000)

<sup>3</sup> Environment, Food and Rural Affairs Committee, First Report of Session 2002–03, *Reform of the Common Fisheries Policy*, HC 110, Third Report of Session 2003–04, *Caught in the net: by-catch of dolphins and porpoises off the UK coast*, HC 88

<sup>4</sup> Environment, Transport and Regional Affairs Committee, Twentieth Report of Session 1999–2000, *UK Biodiversity*, HC 441, paragraph 54

<sup>5</sup> Defra, *Safeguarding our Seas: a strategy for the conservation and sustainable development of our marine environment*, 2002

- the likely impact of designating Special Areas of Conservation and Special Protection Areas linked with the Habitats and Birds Directives; and the delay in doing so;
- the likely impact of introducing Strategic Environmental Assessments; and
- the delay in identifying Marine Environment High Risk Areas.

4. We received memoranda from 25 organisations and individuals. During November and December 2003 and January 2004, we took oral evidence from Wildlife and Countryside LINK, the Joint Nature Conservation Committee, the UK Major Ports Group, the British Ports Association, Professor John Gage, the Joint Nautical Archaeology Committee, British Geological Survey and the Department for Environment, Food and Rural Affairs. We also spent a day in Southampton, where we visited the Southampton Oceanographic Centre, the British Marine Aggregates Producers Association and the Port of Southampton. We are most grateful to all those who assisted us in our inquiry.

5. The issues surrounding marine environmental policy are varied and complex. It has not been possible to address all of them during this inquiry, but we believe that a number of key themes have emerged. We have also considered some issues in greater detail. Our report begins by describing problems that were identified by our witnesses, and then examines some of the ways in which the Government is addressing those problems. Finally, we consider the solutions and further work that our witnesses advocate and draw our conclusions. Illustrative examples are given throughout the report.

## 2 What are the problems?

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### Complexity of the regulatory and institutional regime

6. There is consensus across environmental groups, industrial interests and the Government that the current legislative and institutional regimes governing activity in the marine environment are too complex and in some cases unable to cope with today's pressures.<sup>6</sup> Regulation has developed on an *ad hoc* basis as issues have arisen. As a result there may be duplication in some areas, and gaps in others. Some of the legislation is out-dated: for example, the regulations governing Sea Fisheries Committees have not kept pace with changes to inshore fisheries.<sup>7</sup>

7. One facet of this complexity arises from the fact that policies and regulatory regimes are developed at both national and European levels. Furthermore, there is a trans-national tier: the International Maritime Organization and the United Nations, as well as regional groups such as the signatories to the OSPAR convention and members of the Northwest

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<sup>6</sup> Ev 11, Ev 12, Ev 17, Ev 26, Ev 38, Ev 43, Ev 60, Ev 85, Ev 148, Q1

<sup>7</sup> Ev 39, Q276

Atlantic Fisheries Organization have marine policies.<sup>8</sup> The spatial boundaries which apply to different regulations and consenting regimes can also be confusing. The table below outlines the areas in which various Acts and powers apply.<sup>9</sup>

<b>Act or powers</b>	<b>Distance from shore to which the law applies</b>
Town and Country Planning Act 1993	Mean Low Water Mark
Local harbour powers	Boundaries of harbour
Land Drainage Act 1991 Water Resources Act 1991	Three nautical miles ("Controlled waters")
Sea Fisheries Act	Six nautical miles
Transport and Works Act 1992 Electricity Act 1989	12 nautical miles (limit of territorial waters)
Petroleum Act 1998 Food and Environment Protection Act 1985	200 nautical miles (UK waters)

8. Within territorial waters, it may be necessary to obtain permission for certain activities from the Crown Estate. In such waters, control is devolved and thus falls within the competency of the Welsh Assembly and the Scottish Executive in Wales and Scotland. Beyond 12 miles, competency reverts to the United Kingdom.

9. Partly as a result of these complexities, the time taken to reach decisions, and the cost entailed, are often excessive, both for development consents and conservation measures. For businesses, there is a high degree of uncertainty inherent in any new proposal for a development or activity. Conservationists are concerned that delays in granting protection have led to more damage being inflicted on valuable sites, such as the Darwin Mounds.<sup>10</sup>

### **Lack of 'joined-up Government'**

10. Although Defra takes the lead on marine conservation, other departments (including the Ministry of Defence, Office of the Deputy Prime Minister, Department for Transport, Department of Trade and Industry) are responsible for many of the activities that can affect the marine environment. Again, this means that those wishing to undertake a certain activity in the marine environment must liaise with many Departments and agencies.<sup>11</sup> The Minister for Environment and Agri-Environment said that co-ordination of activities between the Government Departments and agencies with an interest in the marine environment was good, but accepted that there might be opportunities for streamlining.<sup>12</sup>

<sup>8</sup> The OSPAR Convention is The Convention for the Protection of the Marine Environment of the North-East Atlantic, which was opened for signature at the Ministerial Meeting of the Oslo and Paris Commissions in Paris on 22 September 1992 and entered into force on 25 March 1998.

<sup>9</sup> [http://www.mceu.gov.uk/MCEU\\_LOCAL/FEPA/Consents-profile-main.htm](http://www.mceu.gov.uk/MCEU_LOCAL/FEPA/Consents-profile-main.htm)

<sup>10</sup> Ev 26, Ev 29

<sup>11</sup> Q79

<sup>12</sup> Q290

11. Some of our witnesses expressed concern that the Government as a whole does not have a coherent, over-arching vision for the marine environment.<sup>13</sup> Wildlife and Countryside Link told us that *Safeguarding our Seas* was seen as a Defra document and that other departments such as the Ministry of Defence and the Department of Trade and Industry were reluctant to accept the idea of marine stewardship.<sup>14</sup> In Link's view, this makes delivery of the aspirations set out in *Safeguarding our Seas* problematic.<sup>15</sup> From a different perspective, the UK Major Ports Group also felt that Defra might be more inclined to take account of the view of conservation agencies and environmental groups than of the needs of transport, and so it would prefer the Department for Transport to control consents for their industry.<sup>16</sup>

#### **Underwater Cultural Heritage**

The United Kingdom's seas represent a valuable facet of our cultural heritage. There are the thousands of shipwrecks and remains of aircraft that one might immediately think of, but there are also drowned prehistoric landscapes containing artefacts that are more than 8000 years old. It is a particularly fascinating aspect of the marine archaeological record that organic material is often extremely well preserved: for example, long bows were found in the wreck of the *Mary Rose*.

However, as with the protection of marine natural heritage, we were told that the protection of marine cultural heritage is hampered by a lack of knowledge of what is there, a plethora of legislation and poorly co-ordinated lines of responsibility in Government. The Department for Culture, Media and Sport does not appear to give anything like as much attention to marine cultural heritage as it does to that on land.

### **Lack of mechanisms to assess and manage cumulative impacts of different human activities at sea**

12. The consenting procedures for developments and activities at sea are generally handled on a sector-by-sector basis by the relevant sponsoring Department. Environmental groups expressed concern that the cumulative and 'in-combination' effects of industries such as oil and gas extraction, wind farms, coastal developments and fishing are not assessed under the present system. Although such groups welcomed the introduction of strategic environmental assessment for particular industry sectors, they felt that this would not solve the problem of assessing the cumulative effects of different industries. As well as failing to provide adequate protection, it is felt that the current approach duplicates effort, particularly in data collection.<sup>17</sup>

13. Furthermore, as outlined above, the consenting procedure is complicated and often involves many Departments, agencies and others. The UK Major Ports Group expressed reservations about the transparency and accountability of some decisions made about licensing new developments, for example where conservation agencies were thought to have given confidential advice to a Department about a proposed development.<sup>18</sup>

<sup>13</sup> Qq2, 73

<sup>14</sup> Qq6, 14

<sup>15</sup> Q14

<sup>16</sup> Q94

<sup>17</sup> Ev 5

<sup>18</sup> Q81



14. Ports were also concerned that requirements placed upon them under the terms of licences for activities within protected areas are sometimes too onerous and that the costs are disproportionate to the environmental benefits gained.<sup>19</sup>

#### **Marine Aggregates Dredging**

About 21% of the sand and gravel used in England and Wales is supplied by the marine aggregates industry. Extraction of marine aggregates involves less than one per cent the UK continental shelf.

The Crown Estate issues licences for aggregates and minerals extraction from the seabed. Before a licence is granted, Defra (or the Scottish Executive, or the National Assembly for Wales) must give permission, which is dependent upon the results of a number of environmental studies, including examination of the impact on coastal erosion, fisheries, marine archaeology and biodiversity. Defra consults local authorities, fishing organisations and English Nature before granting permission.

Conditions, such as environmental monitoring, are commonly attached to licence, and areas are zoned to restrict the area dredged at any one time. It is evident that Defra understands the potential impact of dredging and care is taken to address impacts in those limited areas where dredging is allowed. In the context of this inquiry, we received no representations expressing concern about dredging. Indeed, the Joint Nature Conservation Commission welcomed the fact that the marine aggregates industry had undertaken a Regional Environmental Assessment of the eastern English Channel.<sup>20</sup>

### **Inadequacy of mechanisms to protect important and vulnerable species and habitats**

15. Certain marine sites and species in the United Kingdom are protected under national and European legislation, and under the terms of international agreements. However, environmental groups and the conservation agencies argue that the mechanisms available at present are inadequate. Most national measures, such as Sites of Special Scientific Interest, should more properly be thought of as measures to protect coastal rather than truly marine environments, as they only extend as far as the low water mark. The Secretary of State has the power to designate Marine Nature Reserves in waters up to three nautical miles from shore, but it is widely recognised that operation of this policy has been ineffective, partly because of difficulties in securing agreement about where reserves should be sited and in controlling activities that occur within them.<sup>21</sup> In addition, various international agreements that aim to protect certain mobile offshore species, such as whales, dolphins and porpoises and sharks can be found wanting as our recent report on cetacean by-catch shows.

16. The main instruments for protecting offshore areas are the Habitats and Birds Directives. A United Kingdom court judgement in 1999 found that the Habitats Directive applied in United Kingdom waters beyond the 12 nautical mile limit of territorial waters.<sup>22</sup> The Government is now taking steps to implement the Directive in offshore waters and has also agreed to take parallel steps to apply the requirements of the Birds Directive in the same areas. The offshore area in this context refers to the region from the 12 nautical mile territorial seas limit out to the UK Continental Shelf limits (up to 200 nautical miles from the coast). However, protection under these Directives has its limitations.

<sup>19</sup> Qq82-83

<sup>20</sup> Ev 48

<sup>21</sup> Ev 10

<sup>22</sup> CO/1336/99336/99

## **Marine Environmental Protection**

### *Biodiversity Action Plans*

As required by the 1992 Convention on Biological Diversity, the Government has prepared a national Biodiversity Action Plan, which sets out its strategy for conserving wild species and habitats. A number of species and habitat action plans have been prepared for marine biodiversity, but these are often constrained by a lack of knowledge.

### *Sites of Special Scientific Interest (SSSIs)*

SSSIs are designated under the Wildlife and Countryside Act 1981. Their purpose is to protect areas of important flora, fauna, geological and/or physiographical features. The Countryside and Rights of Way Act (2000) strengthened protection measures for SSSIs. The boundaries of these sites extend only as far as the mean low water mark (England and Wales) or the mean low water spring mark (Scotland) and therefore only cover intertidal areas.

### *Marine Nature Reserves (MNRs)*

MNRs are designated under the Wildlife and Countryside Act 1981 to conserve inter-tidal and shallow-sea ecosystems and coastal features. There are three MNRs: Lundy Island; Skomer Island; and Strangford Lough.

### *Marine Special Areas of Conservation (SACs)*

The EC Habitats Directive (92/43/EEC) requires Member States to designate Special Areas of Conservation (SACs), which aim to protect areas containing good examples of habitat types and species considered to be most in need of conservation at a European level. These SACs, along with Special Protection Areas (SPAs), classified under the EC Birds Directive, are known as the Natura 2000 network of important high-quality conservation sites. Member States must take all the necessary measures to guarantee the conservation of habitats in special areas of conservation, and to avoid their deterioration.

### *Special Protection Areas*

Special Protection Areas, designated under the Birds Directive (79/409/EEC) provide for the protection, management and control of all species of naturally occurring wild birds in the European territory of Member States. In particular it requires Member States to identify areas to be given special protection for the rare or vulnerable species listed in Annex I (Article 4.1) and for regularly occurring migratory species (Article 4.2) and for the protection of wetlands, especially wetlands of international importance. 71 marine SPAs have been designated under the Birds Directive in the United Kingdom so far.

### *Ramsar sites*

Ramsar sites are designated under the 'Convention on Wetlands of International Importance especially as Waterfowl Habitat' (commonly known as the Ramsar Convention). For the purpose of this Convention, wetlands include areas of marine water that are less than six metres deep at low tide.

### *CITES*

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) came into force on 1 July 1975 and imposes controls on the import and export of certain species, including artefacts made from those species. Trade in some marine species, such as the basking shark, is restricted by CITES.

17. The problems fall into three categories: the scope of the Directives, the availability of information on which to base decisions and the way potentially damaging activities are controlled. The Directives are intended to protect sites and species that are important at the European scale. There are United Kingdom habitats and species that may need to be protected but which are not covered by the Directives. Indeed, only 60% of the actions

<sup>24</sup> OSPAR Commission 2000, *Quality Status Report 2000*, p. 86, R. Covey and D. d'A Laffoley 2002, *Maritime State of Nature Report for England: getting onto an even keel*, pp. 58, 72–73, Ev 74

identified in the marine Biodiversity Action Plan could be delivered under the Habitats and Birds Directives.

18. A well designed system of protected areas depends on an accurate understanding of what species and habitats are present where, the scale and nature of potentially damaging human activities and the way in which species and ecosystems respond to those activities. As we discuss in a later section, this knowledge is, to a large extent, lacking for the offshore environment and particularly for deeper waters.

19. Designation of sites under the Habitats and Birds Directives does not in itself confer protection. Instead, licensed activities that go on in designated sites must undergo an assessment to determine their likely impact on the features of interest. Where the activity is judged to be likely to cause damage to the site, the operator and the licensing authority must agree a management regime that will minimise and mitigate any damage. Where knowledge of the site is adequate, the Joint Nature Conservation Committee believes that the protection mechanism works well.

20. However, the exception to this is where a potentially damaging activity is not under the direct control of the United Kingdom. Two of the most important activities—fishing and shipping—are not. Fishing, particularly deep sea trawling, was considered by many of our witnesses as the greatest threat to many marine ecosystems. National governments have a responsibility to protect sites designated under the Habitats Directive but are not able to impose fishing restrictions in Community waters, as that is an EU competency under the Common Fisheries Policy. In theory, this need not matter as the European Commission can apply emergency conservation measures if a Member State can show that a certain fishery is damaging a site protected under the Habitats or Birds Directive. However, as the example of the Darwin Mounds and the problems of cetacean by-catch have shown, this mechanism is woefully inadequate. It took two years to impose fishing restrictions on the Darwin Mounds, during which time damaging trawling continued.

#### **Fishing**

Both the OSPAR Commission Quality Status Report of 2000 and English Nature's maritime State of Nature report listed fishing as one of the most important factors in the decline of the marine environment.

Where it is not properly managed, fishing can affect not only populations of the targeted species but also of others that are caught unintentionally, and can disturb the sea bed habitat when heavy gear is dragged along the bottom. English Nature's report says that 64% of fish stocks in European waters are over-exploited and the rest are already fully exploited. In addition it is estimated that for every kilogramme of North Sea sole caught by beam trawl, up to 14 kg of other seabed animals are killed. Professor Gage told us that damage to slow-growing deep-water species such as soft corals would take many years to be repaired.<sup>24</sup>

### **Lack of knowledge of much of marine environment**

21. Protection of the marine environment, particularly that of the deep sea, is hampered by a lack of knowledge of which habitats and species are present and an incomplete understanding of how marine ecosystems function. Very little of the seabed has been mapped. In many cases, neither the extent of any existing damage nor the ecosystem's capacity to recover is known. As we described above, this lack of knowledge makes it

difficult to designate areas for protection and also makes it harder to manage activities that have the potential to damage marine ecosystems.

22. This lack of knowledge does not reflect a lack of expertise. On the contrary, the United Kingdom is home to several internationally-renowned centres of excellence in marine and fisheries research. However, the cost of surveys and other research at sea is very high, particularly for deep waters, and cannot be met through research funding alone.

23. The problem is not simply one of cost, but also of using data effectively. Some of the existing databases, for example those from hydrological, geological and geographical mapping exercises, are not in the same format. Therefore it is difficult to achieve a complete picture of the seabed even for areas for which all this information has been collected. Moreover, the Natural Environment Research Council and Professor Gage suggested there may be institutional barriers to different organisations working together and sharing information, partly because they must compete against one another for funding.<sup>25</sup> The Treasury's requirement that publicly funded research institutes should maximise their income from the data they possess is at odds with the need to minimise the overall costs of data gathering by sharing existing data freely.

24. With perhaps the exception of seabed mapping for the purposes of strategic environmental assessment, much of the surveying of the marine environment is done on a piecemeal basis as particular developments are proposed. According to the Marine Conservation Society,

scientific and activity data is repeatedly collated for the same stretch of sea by different industries and departments that represent them. This not only wastes tax payers' money but also wastes civil servants' time and that of users such as fishermen who must repeatedly collate and supply the data often in different formats.<sup>26</sup>

25. We note that the Parliamentary Office of Science and Technology will be examining some of these issues in the spring and summer of 2004 and we look forward to their conclusions.

### 3 How the Government is addressing these problems

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26. In its evidence, Defra described the action that it and other Government departments are taking to improve marine environmental protection.<sup>27</sup> In this section, we briefly outline those steps that we consider to be most significant.

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<sup>25</sup> Ev 74–75, Ev 150

<sup>26</sup> Ev 6

<sup>27</sup> Ev 112–113

## Marine Stewardship Report

27. The Government published its first Marine Stewardship Report, *Safeguarding our Seas*, in 2002. In it, the Government endorsed the use of an ecosystem approach, which is “the integrated management of human activities based on knowledge of ecosystem dynamics to achieve sustainable use of ecosystem goods and services and maintenance of ecosystem integrity”. The Government said the new approach was more strategic and placed the emphasis on maintaining the health of ecosystems, in contrast to past management of oceans which “has often been fragmented, sectorally-based and driven by short-term economic gain”. The sentiments and vision outlined in the report were largely welcomed by witnesses to our inquiry, but some questioned whether the Government had created a framework for delivering its objectives and whether the whole Government had signed up to the goals of marine stewardship and the ecosystem approach.

## Review of Development in Marine and Coastal Waters

28. The Government is conducting a review of the consenting procedures for developments in coastal and marine waters.<sup>28</sup> The Minister in charge is Lord Rooker in the Office of the Deputy Prime Minister and the Review is being undertaken by a unit in the Department for Transport. The Review’s objective is “to reduce the complexity of the regime governing development in coastal and marine waters”. It “aims to make it easier for business to operate in the sea, ensuring that the Government's objectives for the protection of the marine environment can be met and preventing unnecessary interference with other legitimate uses of the sea”.<sup>29</sup> The Review has taken longer than expected to reach a conclusion, which has caused concern, but is due to report this year.<sup>30</sup>

## Review of Marine Nature Conservation and Irish Sea Pilot Project

29. In 1999, Defra established a Review of Marine Nature Conservation (RMNC) to examine how effectively the system for protecting nature conservation in the marine environment was working, and make proposals for improvements. A cross-sectoral Working Group was convened to undertake the Review, with a sub-group looking at the current legislative framework.

30. The RMNC's interim report and recommendations were produced in March 2001. As a result a pilot project is being carried out in the Irish Sea.<sup>31</sup> The pilot is testing the application of the ecosystem approach to managing the marine environment and examining how broad conservation objectives can be set and ways in which they can be achieved.<sup>32</sup> Defra says the pilot

is demonstrating the application of new concepts and examining how far the conservation management needed within the pilot area could be delivered through existing mechanisms. This includes the identification of those parts of the regional sea ecosystem that are of nature conservation value or importance. It is also

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<sup>28</sup> Ev 112–1113

<sup>29</sup> [http://www.dft.gov.uk/stellent/groups/dft\\_shipping/documents/page/dft\\_shipping\\_505276.hcsp](http://www.dft.gov.uk/stellent/groups/dft_shipping/documents/page/dft_shipping_505276.hcsp)

<sup>30</sup> Ev 113, Qq74, 312,318

<sup>31</sup> Ev 113

<sup>32</sup> Ev 44

examining how to integrate nature conservation into key sectors to make an effective contribution to sustainable development on a regional basis.<sup>33</sup>

31. The pilot project is due to report in spring this year. It is expected to make recommendations about best practice in managing the seas, about possible changes in the current legislative framework, governance and enforcement arrangements, about the development of protocols to identify nationally important sites, species and habitats, and a set of strategic goals for marine nature conservation.<sup>34</sup>

## Strategic Environmental Assessment

32. The RSPB describes Strategic Environmental Assessment (SEA) as “a systematic process for evaluating the environmental consequences of policies, plans and programmes”.<sup>35</sup> The European Union has adopted a Strategic Environmental Assessment Directive.<sup>36</sup> Defra told us that the Directive “focuses mainly on plans or programmes which set frameworks for development consent of individual projects, and will apply where their preparation formally begins after 21 July 2004” and will “set new standards of rigour in environmental assessment at levels above that of the individual project”.<sup>37</sup>

33. Defra informed us that, although the Directive has not yet come into force, the Department of Trade and Industry

has been undertaking a series of SEAs for the offshore oil and gas sector based on the requirements of the Directive [...] the work commenced in 2000 and covers the entire UK Continental Shelf (UKCS) with the UKCS divided into eight regions. The first three SEAs have now been completed with a target date of 2007 for the whole project. In the last year a separate offshore renewables SEA process has merged with the oil and gas initiative and the remaining SEAs will cover all offshore energy.<sup>38</sup>

34. The offshore SEA initiative requires a budget of £2.5 million for each year of its life. However the Government hopes that the data collected will be of use in other marine SEA work.

## Action in conjunction with other countries

35. In its memorandum, Defra outlined work that the Government is doing with its international partners.<sup>39</sup> In relation to biodiversity, for example, OSPAR countries have established criteria for identifying threatened and declining species and have adopted an initial list based on these criteria. There is also a proposal for the development of a network of protected areas by 2010.<sup>40</sup>

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<sup>33</sup> Ev 113

<sup>34</sup> Ev 113

<sup>35</sup> Ev 8

<sup>36</sup> Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment

<sup>37</sup> Ev 114–115

<sup>38</sup> Ev 115

<sup>39</sup> Ev 110–112

<sup>40</sup> Ev 111



36. At the 2002 World Summit on Sustainable Development, more than 180 states agreed to “a package of targets to better protect and manage the world’s seas”, which includes application of the ecosystem approach by 2010 and the establishment of a representative network of marine protected areas by 2012.<sup>41</sup>

37. The European Commission and European Union Member States are working on a “thematic strategy for the protection and conservation of the Marine Environment”, which among other matters, will develop the ecosystem approach.<sup>42</sup>

## 4 What else needs to be done?

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38. Notwithstanding the activities outlined above, many of our witnesses argued that more needed to be done to simplify the current regime and achieve better environmental protection.

### A Marine Act

39. Environmental groups and some marine industries, such as the aggregates industry, want to see the introduction of a comprehensive package of measures, including legislation, to address the shortcomings in current regulations.<sup>43</sup> Wildlife and Countryside Link explained that they and others use the term ‘Marine Act’ as a shorthand for this package.<sup>44</sup> WWF said “a Marine Act would bring together all the building blocks of current legislation and enable much needed changes to be made, not only those for nature conservation but also those for development and management issues”.<sup>45</sup> The Wildlife Trusts have set out principles for marine stewardship based on the ecosystem approach,<sup>46</sup> and see new legislation and changes to the present institutional framework as prerequisites for such an approach.<sup>47</sup>

40. The UK Major Ports Group was more cautious. It said

in recent years the balance of regulation has shifted, and is continuing to shift, in favour of conservation and against the economic factors. [...] The time has come for a reappraisal of the effect which environmental legislation is imposing on the UK ports industry. Certainly, if any new measures were to be proposed we would urge that there should be a proper examination of the likely costs and benefits.<sup>48</sup>

41. Mr Morley said that there “may well be a case” for a Marine Act and that Defra was considering the issue, but stressed that it was important to be clear precisely what such an

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<sup>41</sup> Ev 112

<sup>42</sup> Ev 113

<sup>43</sup> The British Marine Aggregates Producers Association expressed strong support for a Marine Act when we visited them in Southampton.

<sup>44</sup> Q7

<sup>45</sup> Ev 27

<sup>46</sup> Ev 19-20

<sup>47</sup> Ev 17

<sup>48</sup> Ev 58



Act would entail, and that what it would achieve could not be achieved under the present range of regulations.<sup>49</sup> Both the Review of Development in Marine and Coastal Waters (RDMCW) and the Review of Marine Nature Conservation (RMNC) may well make recommendations addressing this issue. **In view of the delays in concluding the Review of Development in Marine and Coastal Waters, the Marine Environment High Risk Areas exercise and other initiatives, and given the need for urgent action, the Government should immediately publish a timetable for the delivery of the reviews and other initiatives it has underway.**

42. In a debate on the environment on 10 February this year, the Minister for Environment and Agri-Environment said that he intended to press for the extension of protected areas under the Convention on Biological Diversity to be extended to the marine environment.<sup>50</sup> While this is laudable, we are concerned that measure under such agreements often lack teeth. It becomes more difficult to implement protection measures further away from shore and it is hard to arrive at enforceable policies for areas that are not the responsibility of a single nation. **The Government should review the international agreements on the marine environment to which the United Kingdom is a signatory to ensure that they are not just fine words but that they contain practical measures that contracting parties will implement.**

43. It is clear that an effort to rationalise and update the current complex regulatory framework is needed. It would be premature to decide what form this rationalisation should take before the RDMCW and RMNC present their findings. **As soon as possible after the conclusion of the two marine reviews now underway, the Government should produce a paper outlining what changes are needed to the present regime, and to what extent these changes can be made within the framework of existing legislation. If the changes cannot be made within the existing framework, the Government should publish a consultation paper exploring the desirability of a Marine Act.**

44. **At present, the different Departments involved do not appear to have a common approach to sustainable development in the marine environment and there is no formal arrangement allowing them to come together. Given the complexity of this area of policy, the Government should put in place a clearly defined co-ordinating mechanism to bring together, on a regular basis, the key parties with a role in protecting the marine environment. Ideally, there should be a Cabinet sub-committee to deal with marine issues. The Government should consider whether a co-ordinating agency should be established to ensure that the links are made between all the many activities that may affect the marine environment.**

45. **We are particularly concerned that there is insufficient knowledge of the effects of deep sea trawling on marine ecosystems and in particular on the sea bed. Additional research to improve our knowledge of such effects needs to be undertaken urgently in order to be able to reach a conclusion about what restrictions on deep sea trawling might be desirable.**

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<sup>49</sup> Q267

<sup>50</sup> HC Debates, 10 February 2004, column 1294

46. We recommend that the Defra produce a paper detailing how the marine stewardship and ecosystem approach outlined in *Safeguarding our Seas* will be delivered in practice and by what mechanisms the often competing demands of habitat protection and expanding marine industries and energy extraction will be reconciled.

47. On land, people can see the impact of human activity on the environment, but at sea, pollution, damage to fish stocks, degradation of habitats and declines in biodiversity are less immediately apparent. As a result, concern is often restricted to those individuals and bodies that have a keen and direct interest in the oceans and public pressure for urgent action may be lacking. Furthermore we know comparatively little about what impact we have on the sea and conclusive evidence may only come when the damage is irreparable. Government, then has a particular responsibility to take the initiative to protect our oceans and to act with all urgency.

### Marine spatial planning

48. Some environmental groups advocated the introduction of a marine spatial planning system, which would identify areas that were suitable for development and other uses and areas that should not be subject to use. Supporters of marine spatial planning argue that it would resolve many of the difficulties of managing the marine environment. For example, Strategic Environmental Assessments aim to manage the impacts of individual sectors, such as oil and gas exploration, but would not address the combined effects of all sectors. Spatial planning would aim to assess and control the combined and cumulative impacts of all activities at sea. Advocates of marine spatial planning view the Strategic Environmental Assessment process as a tool to be used within the context of a spatial plan.

49. It was also argued that the sectoral approach resulted in an inefficient use of resources, particularly for surveying and data gathering and that a single plan would allow people to identify what information had already been gathered and what gaps remained to be filled.<sup>51</sup>

50. It is suggested that a single strategic plan for all sectors would provide a forum where conflicts of interest between different uses could be addressed and resolved in a transparent way and at a larger spatial scale than that of individual projects. Its proponents say that regional spatial planning would also inject greater certainty into the decision making process and allow developers to better manage their risks.<sup>52</sup>

51. Finally, the Marine Conservation Society argues that the ecosystem approach, which the Government embraced in *Safeguarding our Seas*, cannot be achieved without marine spatial planning, since the current approach either applies to too small an area, such as protected sites, or only applies to a particular activity, such as the development of wind farms.<sup>53</sup>

52. The idea of marine spatial planning appears to be gaining currency, both within the United Kingdom and internationally. The Government has committed itself to exploring the role that spatial planning could play in the marine environment.<sup>54</sup> The United

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<sup>51</sup> Ev 6

<sup>52</sup> Ev 5

<sup>53</sup> Ev 5

<sup>54</sup> *Safeguarding our Seas*

Kingdom hosted an OSPAR meeting in January 2004 to discuss the topic and exchange information with other OSPAR members. In addition, the European Commission has said that it might use spatial planning as a means of integrating nature conservation with development if the two came into conflict in the implementation of the Habitats and Birds Directives throughout the marine environment.<sup>55</sup>

53. Nevertheless, some important matters remain to be resolved before spatial planning could be introduced for the marine environment, a fact that its proponents readily acknowledge. Perhaps the key question is which body would be responsible for preparing the plan and how it would derive its authority. A second, related, issue concerns seas that fall under more than one national jurisdiction. Matters within territorial waters (up to 12 nautical miles) are devolved, so many plans would require close co-operation between the different countries of the United Kingdom. Furthermore, plans for the Irish Sea, the Channel and areas of the North Sea would need to be agreed with other Member States of the European Union. Two activities that potentially have a large impact on the marine environment—shipping and fishing—fall outside any single nation’s remit, and any steps to assess and mitigate their impact would need to be taken in the context of the IMO and the EU.

54. **While we welcome the Strategic Environmental Assessment Directive, and commend the Department of Trade and Industry’s early work on implementing it, we share our witnesses’ concerns that adequate assessment and mitigation of the cumulative impacts of different activities is still lacking. Unlike the situation on land, where a single Department—the Office of the Deputy Prime Minister—has responsibility for planning issues, development at sea is regulated by many Departments and agencies. It is possible that marine spatial planning could overcome these problems, but it is not yet clear how such planning would work in practice. In particular, we see limited use for a plan that ignores shipping and fishing, areas which are outside the Government’s direct control. The powers and remit of any planning authority would need to be carefully framed to ensure that any plan drawn up could be implemented in practice. Wherever in Government the authority was based, it would need to ensure that the concerns of all users of the sea were taken into account.**

## Research

55. All of the initiatives intended to protect the marine environment depend utterly on a sound scientific understanding of marine ecosystems. **The Government must ensure that it makes best use of the scientific expertise and knowledge within United Kingdom institutions. We recommend that Defra encourage collaborative research between fisheries scientists and those researching the wider marine ecosystem. The Government should also examine the future funding of marine science to ensure that centres of excellence in marine research can continue their work.**

56. **The survey work undertaken as part of the DTI’s Strategic Environmental Assessment exercise is welcome, as is the Government’s promise to make the resulting data freely available. However, the Government should consider funding further**

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<sup>55</sup> *Towards a strategy to protect and conserve the marine environment*, COM(2002) 539 final, 2 October 2002.

geological, hydrographic and biological survey work to better inform selection of protected areas and marine ecosystem management.

57. Effective management of existing information is as important as collecting new data. We recommend that Defra draw up proposals for a harmonised management system for data held by publicly funded research institutions and consult on these as soon as possible.

### **Habitats and species protection**

58. The episode of the Darwin Mounds showed the limitations of the Habitats Directive in protecting special features of the offshore environment. Although we understand that the European Commission may address some of the problems in its thematic strategy, which is due to be published in 2005, we urge Government to begin immediate work with the Commission to ensure the Habitats Directive covers all necessary species and habitats, to strengthen protection of the marine environment and to ensure that conflicts between the demands of the Directive and of the Common Fisheries Policy are resolved as a matter of urgency. In the meantime, the Government should report on the effectiveness of conservation measures for marine species that are not protected under the EU Habitats and Birds Directives.

## Conclusions and recommendations

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1. In view of the delays in concluding the Review of Development in Marine and Coastal Waters, the Marine Environment High Risk Areas exercise and other initiatives, and given the need for urgent action, the Government should immediately publish a timetable for the delivery of the reviews and other initiatives it has underway. (Paragraph 41)
2. The Government should review the international agreements on the marine environment to which the United Kingdom is a signatory to ensure that they are not just fine words but that they contain practical measures that contracting parties will implement. (Paragraph 42)
3. As soon as possible after the conclusion of the two marine reviews now underway, the Government should produce a paper outlining what changes are needed to the present regime, and to what extent these changes can be made within the framework of existing legislation. If the changes cannot be made within the existing framework, the Government should publish a consultation paper exploring the desirability of a Marine Act. (Paragraph 43)
4. At present, the different Departments involved do not appear to have a common approach to sustainable development in the marine environment and there is no formal arrangement allowing them to come together. Given the complexity of this area of policy, the Government should put in place a clearly defined co-ordinating mechanism to bring together, on a regular basis, the key parties with a role in protecting the marine environment. Ideally, there should be a Cabinet sub-committee to deal with marine issues. The Government should consider whether a co-ordinating agency should be established to ensure that the links are made between all the many activities that may affect the marine environment. (Paragraph 44)
5. We are particularly concerned that there is insufficient knowledge of the effects of deep sea trawling on marine ecosystems and in particular on the sea bed. Additional research to improve our knowledge of such effects needs to be undertaken urgently in order to be able to reach a conclusion about what restrictions on deep sea trawling might be desirable. (Paragraph 45)
6. We recommend that the Defra produce a paper detailing how the marine stewardship and ecosystem approach outlined in Safeguarding our Seas will be delivered in practice and by what mechanisms the often competing demands of habitat protection and expanding marine industries and energy extraction will be reconciled. (Paragraph 46)
7. On land, people can see the impact of human activity on the environment, but at sea, pollution, damage to fish stocks, degradation of habitats and declines in biodiversity are less immediately apparent. As a result, concern is often restricted to those individuals and bodies that have a keen and direct interest in the oceans and public pressure for urgent action may be lacking. Furthermore we know comparatively little about what impact we have on the sea and conclusive evidence may only come when

the damage is irreparable. Government, then has a particular responsibility to take the initiative to protect our oceans and to act with all urgency. (Paragraph 47)

8. While we welcome the Strategic Environmental Assessment Directive, and commend the Department of Trade and Industry's early work on implementing it, we share our witnesses' concerns that adequate assessment and mitigation of the cumulative impacts of different activities is still lacking. Unlike the situation on land, where a single Department—the Office of the Deputy Prime Minister—has responsibility for planning issues, development at sea is regulated by many Departments and agencies. It is possible that marine spatial planning could overcome these problems, but it is not yet clear how such planning would work in practice. In particular, we see limited use for a plan that ignores shipping and fishing, areas which are outside the Government's direct control. The powers and remit of any planning authority would need to be carefully framed to ensure that any plan drawn up could be implemented in practice. Wherever in Government the authority was based, it would need to ensure that the concerns of all users of the sea were taken into account. (Paragraph 54)
9. The Government must ensure that it makes best use of the scientific expertise and knowledge within United Kingdom institutions. We recommend that Defra encourage collaborative research between fisheries scientists and those researching the wider marine ecosystem. The Government should also examine the future funding of marine science to ensure that centres of excellence in marine research can continue their work. (Paragraph 55)
10. The survey work undertaken as part of the DTI's Strategic Environmental Assessment exercise is welcome, as is the Government's promise to make the resulting data freely available. However, the Government should consider funding further geological, hydrographic and biological survey work to better inform selection of protected areas and marine ecosystem management. (Paragraph 56)
11. Effective management of existing information is as important as collecting new data. We recommend that Defra draw up proposals for a harmonised management system for data held by publicly funded research institutions and consult on these as soon as possible. (Paragraph 57)
12. The episode of the Darwin Mounds showed the limitations of the Habitats Directive in protecting special features of the offshore environment. Although we understand that the European Commission may address some of the problems in its thematic strategy, which is due to be published in 2005, we urge Government to begin immediate work with the Commission to ensure the Habitats Directive covers all necessary species and habitats, to strengthen protection of the marine environment and to ensure that conflicts between the demands of the Directive and of the Common Fisheries Policy are resolved as a matter of urgency. In the meantime, the Government should report on the effectiveness of conservation measures for marine species that are not protected under the EU Habitats and Birds Directives. (Paragraph 58)

## Formal minutes

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**Wednesday 10 March 2004**

Members present:

Mr Michael Jack in the Chair

Mr David Drew	Diana Organ
Mr Mark Lazarowicz	Alan Simpson
Mr David Lepper	David Taylor
Mr Ian Liddell-Grainger	Paddy Tipping
Mr Austin Mitchell	Mr Bill Wiggin

The Committee deliberated.

Draft Report [*Marine Environment*], proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 58 read and agreed to.

Summary read and agreed to.

*Resolved*, That the Report be the Sixth Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No.134 (Select committees (reports)) be applied to the Report.

Several papers were ordered to be appended to the Minutes of Evidence.

The Committee further deliberated.

[Adjourned till Tuesday 16 March at a quarter past Two o'clock.]



# Witnesses

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## Wednesday 12 November 2003

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Joan Edwards, **The Wildlife Trusts**, Sharon Thompson, **RSPB**, Mark Simmonds, **Whale and Dolphin Conservation Society**, Melissa Moore, **Marine Conservation Society**, and Jan Brown, **WWF-UK** Ev 30

Mark Tasker, **Joint Nature Conservation Committee**, Richard Leafe, **English Nature**, Sandy Downie, **Scottish Natural Heritage**, Charlotte Johnston, **Joint Nature Conservation Committee**, and Maggie Hill, **Countryside Council for Wales** Ev 49

## Tuesday 2 December 2003

Steve Cuthbert and John Dempster CB, **UK Major Ports Group**, Nigel Pryke and David Whitehead, **British Ports Association**, Nicola Clay, **Port of London** Ev 56

Professor John Gage, **Scottish Association for Marine Science** Ev 75

## Wednesday 10 December 2003

Robert Yorke, **Joint Nautical Archaeology Policy Committee**, George Lambrick, **Council for British Archaeology**, David Miles and Ian Oxley, **English Heritage** Ev 81

John Rees, **British Geological Survey** Ev 97

## Wednesday 7 January 2004

Elliot Morley MP, and John Roberts, **Department for Environment, Food and Rural Affairs** Ev 120

## List of written evidence

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Wildlife and Countryside Link	Ev 1, 38
Marine Conservation Society	Ev 2
Royal Society for the Protection of Birds	Ev 7
Whale and Dolphin Conservation Society	Ev 11
The Wildlife Trusts	Ev 17
WWF-UK	Ev 26
Joint Nature Conservation Committee	Ev 43
United Kingdom Major Ports Group	Ev 57, 71
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Department for Environment, Food and Rural Affairs	Ev 108, 136
British Sub Aqua Club	Ev 138
Professional Association of Diving Instructors	Ev 139
Ordnance Survey	Ev 140
Surfers Against Sewage	Ev 143
Institution of Civil Engineers	Ev 145
Department for Transport	Ev 146
Sub-Aqua Association	Ev 147
Scottish Environment LINK	Ev 148
Natural Environment Research Council	Ev 149
Council for British Archaeology	Ev 152
Environment Agency	Ev 154

## List of unprinted written evidence

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Additional papers have been received from the following and have been reported to the House but to save printing costs they have not been printed and copies have been placed in the House of Commons library where they may be inspected by members. Other copies are in the Record Office, House of Lords and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1 (tel: 020 7219 3074). Hours of inspection are from 9:30am to 5:00pm on Mondays to Fridays.

Defra Annex B

UK Hydrographic Office

## Reports from the Committee since 2001

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### Session 2003–04

Fifth Report	The Foods Standards Agency and Shellfish	HC 248
Fourth Report	Environmental Directives	HC 103
Third Report	Caught in the net: By-catch of dolphins and porpoises off the UK coast	HC 88
Second Report	Annual Report of the Committee 2003	HC 225
First Report	Water Pricing ( <i>Reply, HC 420</i> )	HC 121

### Session 2002–03

Eighteenth Report	Conduct of the GM Public Debate ( <i>Reply HC 443 Session 2003-04</i> )	HC 220
Seventeenth Report	Biofuels ( <i>Reply, HC 88 Session 2003-04</i> )	HC 929-I
Sixteenth Report	Vets and Veterinary Services	HC 703
Fifteenth Report	New Covent Garden Market: a follow-up ( <i>Reply, HC 123 Session 2003-04</i> )	HC 901
Fourteenth Report	Gangmasters ( <i>Reply, HC 122 Session 2003-04</i> )	HC 691
Thirteenth Report	Poultry Farming in the United Kingdom ( <i>Reply, HC 1219</i> )	HC 79-I
Twelfth Report	The Departmental Annual Report 2003 ( <i>Reply, HC 1175</i> )	HC 832
Eleventh Report	Rural Broadband ( <i>Reply, HC 1174</i> )	HC 587
Tenth Report	Horticulture Research International ( <i>Reply, HC 1086</i> )	HC 873
Ninth Report	The Delivery of Education in Rural Areas ( <i>Reply, HC 1085</i> )	HC 467
Eighth Report	The Future of Waste Management ( <i>Reply, HC 1084</i> )	HC 385
Seventh Report	Badgers and Bovine TB ( <i>Reply, HC 831</i> )	HC 432
Sixth Report	Rural Payments Agency ( <i>Reply, HC 830</i> )	HC 382
Fifth Report	The Countryside and Rights of Way Act 2000 ( <i>Reply, HC 748</i> )	HC 394
Fourth Report	Water Framework Directive ( <i>Reply, HC 749</i> )	HC 130
Third Report	The Mid-term Review of the Common Agricultural Policy ( <i>Reply, HC 615</i> )	HC 151
Second Report	Annual Report of the Committee 2002	HC 269
First Report	Reform of the Common Fisheries Policy ( <i>Reply, HC 478</i> )	HC 110

### Session 2001–02

Tenth Report	The Role of Defra ( <i>Reply, HC 340, Session 2002-03</i> )	HC 991
Ninth Report	The Future of UK Agriculture in a Changing World ( <i>Reply, HC 384, Session 2002-03</i> )	HC 550
Eighth Report	Hazardous Waste ( <i>Reply, HC 1225</i> )	HC 919
Seventh Report	Illegal Meat Imports ( <i>Reply, HC 1224</i> )	HC 968
Sixth Report	Departmental Annual Report 2002 ( <i>Reply, HC 1223</i> )	HC 969
Fifth Report	Genetically Modified Organisms ( <i>Reply, HC 1222</i> )	HC 767
Fourth Report	Disposal of Refrigerators ( <i>Reply, HC 1226</i> )	HC 673
Third Report	Radioactive Waste: The Government's Consultation Process ( <i>Reply, HC 1221</i> )	HC 407
Second Report	The Countryside Agency ( <i>Reply, HC 829</i> )	HC 386
First Report	The Impact of Food and Mouth Disease ( <i>Reply, HC 856</i> )	HC 323