

# **Review of Sea Fish Industry Authority**

## **Report**

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### Associated papers:

SFIA Review: stakeholder consultation paper. 20 July 2005

SFIA Review: analysis of consultation responses. 2 November 2005

## **Executive Summary**

### ***Introduction***

1. Starting in May 2005, we were invited to undertake a review of the Sea Fish Industry Authority (SFIA), looking at its roles, responsibilities and funding. We issued a consultation paper inviting stakeholders' views in July. This is our report of the outcome of the review.

2. We draw attention in this report to some substantial tensions and contradictions at the heart of SFIA's constitution and funding, which we believe need to be exposed and resolved if SFIA is to move forward on a sound footing. We go on to discuss the main issues raised during our consultation.

### ***Findings: the need for fundamental reappraisal***

#### Fishing industry v. the seafood industry

3. We argue that SFIA is now caught uncomfortably between meeting the needs of the UK-based fishing industry which has traditionally been at the heart of its business, and providing a valued service to the wider seafood industry sourced largely by imported fish. To deal with these tensions and ambiguities about its role, SFIA and sponsor Departments need to develop an agreed statement of how they now interpret the scope of the term 'sea fish industry', and where they consider that its common interests lie. We are not suggesting that a focus on the wider sea food industry implies the necessary exclusion of all activities which support the fishing industry, but it should influence the basis for their selection. The Authority must know what its core remit is if it is to have a sound basis for deciding its programme and priorities.

#### Levy funding and market distortions

4. We argue that the sea fish levy regime as currently operated is responsible for a number of market distortions, and that these have the potential to reinforce inefficient practices at the expense of efficient ones within the sea food industry, and to undermine the competitiveness of levy payers as against other parts of the food industry. Sponsor Departments should seek to apply the levy requirement to all who benefit from SFIA's activities, taking whatever legislative steps may be needed. SFIA should review its work programme to ensure its activities conform with key levy principles.

#### Divided accountabilities

5. As a statutory levy-funded body, SFIA is something of a cross between a standard non-Departmental public body and a voluntary co-operative or trade association. It is accountable to Ministers and to Parliaments in the various parts of the UK, but paid for by the industry.

6. We see dangers in this dual accountability. Ministers have no direct financial interest in ensuring that the SFIA budget is kept to the minimum consistent with delivering its functions effectively; nor do they have any benchmark against which to

judge whether it is prioritising its programme effectively in terms of the best interests of the industry. Members of the industry are in not in a position to give collective expression to, let alone enforce, their views. The result is that SFIA's programme and expenditure levels are relatively free from rigorous scrutiny.

7. We would like to see arrangements put in place to ensure that the Authority is much more responsive to its levy payers while reserving the ultimate authority of Ministers as a back-stop. Some options are discussed in the final section below.

### *Findings: specific issues*

#### The role of SFIA

8. While a substantial majority of our consultation respondents thought there was a continuing role for SFIA, many also favoured a significant rethink or refinement. Major concerns were to align the Authority more closely with the industry rather than Government, and to challenge the levy on imports. Mixed feelings about the continuing case for SFIA were particularly marked among levy payers, of whom there were 14 among our respondents. Six were opposed outright to the continuation of SFIA, while a further five argued for substantial change.

9. We have ourselves no simple and conclusive view to offer on SFIA's future role and priorities. We suggest further work in four stages: (i) SFIA and sponsor Departments to determine the purpose and core constituency; (ii) sponsor Departments to take necessary steps to ensure that the levy applies equitably to all businesses in the 'sea fish industry' as defined; (iii) SFIA to develop a costed forward plan, consistent with key levy principles, setting out how it proposes to meet the needs the industry as defined; and (iv) SFIA to seek industry views on the plan prior to its submission to Ministers.

#### Extending the remit to salmon, migratory trout and bottled and canned fish

10. Consultation respondents were generally in favour of extending SFIA's remit to salmon, although the salmon industry itself was not. Our view is that the current arrangements are inequitable and introduce market distortions. If it is agreed that SFIA's core purpose is to support the sea food industry, then the legislation should be amended to bring salmon within the scope of the levy, together with canned and bottled fish. If SFIA's role is redefined in legislation to focus on the fishing industry, then salmon should be treated in the same way as other farmed fish.

#### Seafood Scotland and other national/regional structures

11. Consultation respondents were generally positive about Seafood Scotland (SFS), but many were also confused about the respective functions of SFIA and SFS. Other regional bodies attracted relatively very few comments.

12. We note that SFS, SFIA and other Scottish bodies have taken steps recently to clarify their respective roles, and suggest that more is now done to convey that clarification to external customers.

13. SFIA has a key difference of purpose from SFS, which exists to promote the Scottish industry. By contrast, SFIA's role is to support the UK industry at large. We recommend that the two bodies formalise their relationship in a published Memorandum of Understanding, and that services supplied by SFS to SFIA should be governed by a Service Level Agreement. Similar arrangements should govern the developing relationships between SFIA and other regional cross industry promotional bodies.

#### Relations with Government

14. Our terms of reference invited us in particular to consider how best SFIA can work with Fisheries Departments to deliver their joint and individual fishing strategies. We found very little enthusiasm among consultation respondents for the idea that the Authority should take on this role. Our view is that the Authority's first line of responsibility is to the industry, and that it is their agenda rather than the Government's which should be the focus of SFIA concern. But we also accept the view put to us by sponsor Departments that there will often be no difference between what Government is proposing for the industry and what is in its best interests.

#### The case for a compulsory levy

15. Respondents' views on this broadly corresponded to their views on the future of the Authority, with a majority supporting the continuation of a compulsory levy in some form. Within this, there were however some strong expressions of concern, particularly about the imposition of levy on imports.

16. Compulsory levy is in our view justified only if three key principles are met including, importantly, the principle that the majority of those required to pay the levy consent to it. Given current levels of support in the industry, we consider that a compulsory sea fish levy continues to be justified at least for the present. We set out elsewhere in the report the steps which we believe should be taken to ensure that other levy principles are met.

#### Rationalising levy collection

17. Notwithstanding the contrary views of many consultation respondents, we consider that a single ad valorem rate of levy should replace the current 26 weight-based rates. This would be both fairer and significantly easier and cheaper to administer. Improved mechanisms for accountability to levy payers should help to reduce opposition to this change in the industry.

#### Charges and grants

18. SFIA should continue to make judgements about how far it should seek to impose charges for the services it provides, and should take full advantage of government grants where they support its objectives. It should seek fully to cover the costs of any services that it provides which do not support the collective interests of levy payers, or discontinue or privatise them. Levy funds should not be used as match funding to attract grant for services which are not central to levy payers' interests.

### Board appointments and advisory committees

19. Many consultation respondents argued for greater industry influence over Board appointments and/or greater transparency. We see no workable alternative to the current arrangements for Ministerial appointments to the Board, and argue that improved accountability to the industry should be secured through different mechanisms. We have some sympathy, however, with concerns that the catching sector is over-represented on the current Board, and suggest that the balance is reconsidered in the next round of appointments.

20. The industry advisory committees perform a valuable function and should be continued in broadly their current form.

### Improving accountability to the industry

21. We are concerned to see new mechanisms put into place to improve SFIA's accountability to the industry it serves. Possible mechanisms include levy payer ballots and formal industry consultation on a costed forward programme. We recommend that sponsor Departments explore the options further with the industry, with a view to putting effective new arrangements in place as soon as possible.

## **Section I: Introduction**

### ***Background and Terms of Reference***

22. The Sea Fish Industry Authority (SFIA or 'Seafish') is a levy funded non departmental public body established under the Fisheries Act 1981 to serve the interests of the UK sea fish industry. Based in Edinburgh and Hull, it has an annual turnover of £11.5m and 117 staff.

23. The four Fisheries Ministers in the UK invited us to undertake a review of the Authority, looking at its roles, responsibilities and funding. The review was one of a programme of periodic reviews of non-departmental public bodies undertaken under Cabinet Office guidelines. Our full terms of reference are at Annex A.

24. We are a team of two: Priscilla Russell of DEFRA's In House Policy Consultancy (IHPC) and John Martin, a former Scottish Executive senior civil servant.

### ***Work programme***

25. Our work programme was guided by a Steering Board, made up of Fisheries' Directors for the four sponsor Departments, and the Chairman and Chief Executive of SFIA. The Steering Board met three times: in May to consider our terms of reference and work programme; in July to consider our consultation paper; and in November to consider this report. While the Steering Board guided our programme, we are alone responsible for the content of the consultation paper and this report.

26. We started work in late May 2005. We issued a consultation paper in mid-July, briefly describing the activities of the SFIA, setting out some of the issues, and posing some specific questions. The paper is available alongside this report. It was sent to over 300 stakeholders, and made available on the web-sites of the four sponsor departments.

27. There were 50 responses to the consultation paper. Marianne Croker, a member of IHPC's team, undertook a question by question analysis of the responses, noting the numbers commenting on particular issues and the content of their response. Her report on the responses is also available alongside this one.

28. We benefited from full day presentations about SFIA activities at both the Hull and Edinburgh offices, and visited the SFIA head office in Edinburgh on a couple of other occasions. We are very grateful for the assistance we were offered by SFIA board members and staff at all levels throughout this exercise. We had informal discussions with some 25 stakeholders (including 4 Board members) and (see paragraph 34) with Rosemary Radcliffe. In addition to the formal Steering Board meetings, we also had very constructive discussions with sponsor Departments' officials on a number of occasions.

### *Structure of this report*

29. As our work on this review progressed, it became increasingly clear to us that there were tensions and contradictions at the heart of SFIA's constitution and funding, and that these needed to be exposed and resolved before many of the issues raised by our terms of reference could sensibly be decided. We concluded also that these were issues which needed to be considered and resolved by the four sponsor Departments in discussion with SFIA management and the industry, rather than dealt with definitively and conclusively by ourselves in this report.

30. The structure of this report reflects that thinking. Immediately following this introductory section, section II is about the need for a fundamental reappraisal of the role of SFIA, focusing on the tensions between the demands of the fishing industry and those of the sea food industry, the market distortions inherent in the current levy arrangements, and the weaknesses arising from the Authority's dual accountability to Ministers and to its levy payers. Section III then follows the structure of our consultation paper, describing the broad tenor of the consultation responses to the issues we raised, noting cross links to the issues raised in section II and offering relevant conclusions.

### *Concurrent Review*

31. Our work was undertaken concurrently with the Review of the Agriculture and Horticulture Levy Boards undertaken by Rosemary Radcliffe. While we have cross-referred to Ms Radcliffe's views at various points in this report, because of the timing we have not directly addressed the question of how far her conclusions apply also to SFIA. In particular, we have not dealt with the issue of how SFIA might fit within the three tier new model structure she recommends, and whether SFIA might benefit from institutional change of this kind. These are questions which sponsor Departments may wish to consider further when they have reached a view on the various issues noted in paragraph 30 above.

## **Section II: The need for fundamental reappraisal**

### ***Introduction***

32. Prompted by Cabinet Office guidance on the management of non-departmental public bodies, the four SFIA sponsor Departments invited us to undertake a routine periodic review of SFIA. In line with other exercises of this type across Government, our terms of reference suggested a fundamental review going to the heart of the case for maintaining SFIA. Our initial contacts with our sponsors suggested, however, that their expectation was for modest reform rather than radical change. Earlier reviewers (the last periodic review was in 1998) had not found cause seriously to question the existence of SFIA.

33. Our work on the review has led us to more uncomfortable conclusions. Though there is much positive to be said about SFIA's current management and aspects of its activities, the overall picture is less reassuring. We have been told that many of SFIA's levy payers are largely ignorant of its activities; some have major concerns about aspects of its work, or about the direction in which they believe it is moving; and some indeed are opposed outright to its continued existence. SFIA's relations with sponsor government departments have been difficult at times; for example, SFIA's most recent Corporate Plan has not been formally endorsed by all. SFIA management itself has still fully to develop a clear vision for the future of the organisation and priorities for action.

34. We do not believe that the difficulties, ambiguities and uncertainties as to priorities stem from poor management or lack of board leadership. Indeed, many who commented to us emphasised the significant improvements which a refreshed management team have recently effected, with positive support from the appointed Board. The difficulties stem rather from tensions and contradictions at the heart of SFIA's constitution and funding. These need to be exposed and resolved if the SFIA is to move forwards on a sound footing.

35. These tensions and contradictions are discussed below under the three headings of:

- (i) The fishing industry v. the seafood industry: where should SFIA's focus lie?
- (ii) Levy funding and market distortions.
- (iii) Divided accountabilities.

### ***The fishing industry v. the seafood industry***

36. SFIA was set up in 1981 to take the place of two fishing-related bodies, the White Fish Authority and the Herring Industry Board. In moving the second reading of the bill which established the Authority, the then Minister of Agriculture, Fisheries and Food said that its purpose was "to enable the fishing industry to succeed in the 1980s". The fishing industry is not defined as such, but it is clear from the debate that the concern was with the health of the UK catching sector, and the related downstream processing and sales-related businesses.

37. Over the 25 years since 1981, there has been a very substantial increase in the amount of fish which is imported into the UK from foreign catchers for processing and/or consumption. Only a relatively small proportion of the fish now consumed in the UK is caught by the UK fleet while much of the fish caught by the UK fleet is exported. The health of the UK catching sector is no longer of such central importance to the UK seafood industry.

38. SFIA is now caught uncomfortably between meeting the needs of the UK-based fishing industry which has traditionally been at the heart of its business, and providing a valued service to the wider seafood industry sourced largely by imported fish. The technical expertise which SFIA has built up over the years, the expectations of the industry, and demands placed on the organisation by sponsor Government Departments all tend to push the Authority towards a continuing focus on the UK fishing industry. This is also the part of the sea food supply chain which most clearly meets the levy tests of 'fragmentation' and 'scale of change' sketched out in the report of the Review of the Agricultural Levy Bodies recently published<sup>1</sup>. But the fact that SFIA now derives some three quarters of its levy income from fish imports provides strong pressure on the organisation to move away from its roots and to provide a service which is of value to the seafood industry at large.

39. In the industry and among wider stakeholders, there are a range of views on how the Authority should deal with these changing pressures. Consultation respondents from the catching sector tend to emphasise the importance of SFIA's traditional surveying and technical services, with one respondent for example referring to the survey department as the Authority's "jewel in the crown". They have some support in this view from the Food and Drink Federation, representing some of the largest levy payers in the processing sector, whose members are said to be happy to support SFIA in its traditional work "to ensure a successful UK fishing industry"<sup>2</sup>.

40. On the other hand, another major levy payer from the importing/processing sector commented that "things like technology training, flume tanks, industry developments etc surely must be a thing from the past", and that "the only obvious thing a levy like this should be used for is marketing and PR which would build a better base for imports to supply the UK market". Their argument again is that "the ones who pay ... must see a better use of funds".

41. SFIA management have recognised the imbalance in their activities between those who pay and those who benefit, and gone some way over the last couple of years to build up their services to support imports. They have also in recent years built up those of their services which support the seafood industry at large, such as sea food promotion, market analysis and support on new legislation. At the time of writing, however, they remain ambivalent about whether their aim for the future should be to provide a service back to the industry more directly in proportion to what different sectors pay, or whether they should aim rather to decide their programme on the basis

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<sup>1</sup> Review of the Agricultural and Horticultural Levy Bodies. Rosemary Radcliffe. October 2005. Paragraphs 5.2 to 5.5.

<sup>2</sup> But it should be noted that FDF are also opposed to paying levy on imported fish raw materials, so the implication is that SFIA should devote a much reduced levy spend to its traditional work.

of where there is greatest need and greatest potential benefit. There is more discussion of the 'proportionality' issue in paras 52 and 53 below.

42. To deal with these tensions and ambiguities about its role, SFIA and sponsor Departments need to develop and publish an agreed statement of how they now interpret the scope of the term 'sea fish industry', and where they consider that its common interests lie. We are not suggesting that a focus on the wider sea food industry implies the necessary exclusion of all activities which support the fishing industry, but it will influence the basis for their selection. The Authority must know what its core remit is if it is to have a sound basis for deciding its programme and priorities.

### *Levy funding and market distortions*

43. SFIA aside, statutory levy funded bodies which impose a compulsory charge on industry members exist only in the agriculture sector in the UK, and as a result the principles that underpin statutory levy funding are not widely debated or understood. The recently published independent review report on the five agricultural levy boards provides a valuable additional statement on the rationale and purpose of such bodies. Our thinking was also influenced by principles developed by the Australian government, which are reproduced at Annex C.

44. Any group of businesses within an industry sector may get together to pay for collective activities where they feel that their individual business interests are best served by joint action. Trade associations are an obvious example of voluntary commitment to collective action, set up often with the core purpose of representing their industries on legislative and regulatory issues. Membership fees can be substantial, but relevant businesses are of course free to join or leave depending on whether they feel that the service provided offers value for money. This is an important discipline in ensuring that the collective action is well targeted to offer market advantage to the businesses which support it.

45. A compulsory levy may be justified where it is clearly in the interests of an industry to act collectively for defined purposes, but where for some reason the industry is unable to take the necessary action on a voluntary basis. This is usually because of the problem of 'free riders', businesses who would benefit from collective action but who would not contribute voluntarily to the costs. Our consultation responses suggest that a majority in the sea fish industry accept that there is a case for a mandatory levy supporting some collective activity (although it is worth noting that just under a half of the actual levy payers who responded did not). SFIA's management and sponsor Departments also believe that there are many ways in which the profitability of the sea fish industry can benefit from collective action.

46. To be defensible, however, it is not enough to show that a compulsory levy supports activities which promote the profitability of some of those who pay the levy. It is necessary also to show that the burden of levy payments fall equitably on all who benefit from the services provided, and that, taking one period with another, all who contribute benefit more or less proportionately. Otherwise the service becomes a windfall for some businesses and a tax for others, distorting the market within which they operate.

47. The SFIA regime as currently operated is responsible for a number of market distortions. For reasons which had some logic historically, the levy is payable at first point of sale on all fish and fish products except salmon and migratory trout and canned and bottled fish. This means that those sectors benefit from SFIA's work to support and promote the fish food industry without having to contribute to the cost. It means that salmon has a competitive advantage over other fish in terms of cost. And it means that levy is payable on fish that is canned or bottled in this country while it is not payable on canned and bottled fish which is imported, thus creating a perverse incentive to invest in processing abroad. None of this has any logic in the context of today's market.

48. There is potential also for market distortions in terms of the relative benefits derived by different sectors of the industry when compared to the amount of levy that they pay. For example, the proportion of levy paid on home landings (26% in 2004/05) is significantly less than the proportion of its spend which SFIA deploys on the UK fishing industry (an estimated 40% of total spend), which may imply some cross-subsidy from the wider industry to the catching sector. More generally, there is a widespread perception among SFIA levy payers that the benefits which SFIA delivers to them fall short of the amounts of levy which they pay, and that other parts of the industry are benefiting disproportionately. This is particularly marked among levy payers whose businesses rely heavily on imported fish. Some understatement of the benefits received may be expected from businesses faced with a compulsory levy, but the breadth and depth of feeling among SFIA levy payers seems to us to be too great to be simply brushed aside and ignored.

49. This is not just an academic issue, nor just a question of fairness. If SFIA is supporting one part of the UK industry at the expense of another, then there is a danger that it is reinforcing inefficient practices at the expense of more efficient ones, to the ultimate detriment of the industry as a whole. If it is engaging in activities which are not justified in terms of the greater profitability of the industry as a whole, then it is undermining the competitiveness of the sea food industry as against other parts of the UK food industry.

50. To avoid market distortions as described, the underlying principle should be to bring all those with a common interest within the scope of the levy, and to focus the programme on activities that promote the common interest. Two sets of actions are required to achieve this. First, having reviewed the definition of the industry which SFIA is intended to serve, sponsor Departments should take whatever legislative steps may be needed to apply the levy requirement to all businesses in the sea fish industry as defined. We discuss further what may be involved in paras 73 and 74 below. Second, SFIA should review its work programme to ensure that levy income is devoted to activities which conform with two key levy principles. These are described below.

51. The first key principle is that any activity supported must be justifiable on the basis of its contribution to the profitability of the levy paying community. This means – obviously – that SFIA should not embark on activities which are irrelevant to the sea fish industry. But, more controversially, it means that SFIA management should be careful to distinguish between activities which are in the interests of the levy

paying community and those which are in the wider public interest, concentrating their efforts on the former. Much of the Government's sustainability agenda falls into the latter category. As the Agricultural Levy Body report makes clear,<sup>3</sup> levy monies should be used to benefit the levy paying community; other structures and arrangements should support the wider public interest agenda.

52. The second key principle is that - to avoid cross-subsidy within the industry - levy payers should benefit from activities financed by the levy broadly in proportion to their contribution. Levy should not be used to support one part of the industry at the expense of another. This does not rule out working with individual parts of the industry or in particular geographic areas where there is a wider industry benefit; for example, encouraging sustainable practices in the catching sector is likely to bring reputational advantage to the seafood industry as a whole; and supporting pilot schemes in one part of the UK may, if successful, be capable of adding value more widely. But it does suggest that levy should not be used to promote the interests of one region against another (an issue we return to in para 82 in the context of Seafood Scotland); and it argues also that there is a limit to the degree to which levy generated on fish imports should be applied to support the UK catching sector, and vice versa.

53. There is a tendency to interpret this 'proportionality' principle as a requirement to spend levy money on different industry sectors - catchers, importers, processors etc - broadly in proportion to what they contribute. This interpretation is unhelpful, and can lead to conflicts with value for money and the Chief Executive's Accounting Officer responsibilities. The Authority should not spend money on a particular industry sector if that spend would not offer good value. It should not be looking simply to give money back to the different industry sectors crudely in proportion to their contribution. It should rather be aiming to finance activities which bring benefits to the levy community as a whole, whether these be central services supporting the entire industry, or sectoral and local activities in which all levy payers have a common interest. Work on cross-industry co-ordination, such as support for the Fish Industry Forum, clearly falls within this definition, as does work in schools to promote fish consumption; but grant-aid for sectional industry representative bodies (such as the Frozen at Sea Fillets Association, the Shellfish Association of Great Britain) arguably does not.

54. Finally, by taking action centrally and achieving economies of scale, SFIA should at all points ensure that it adds more value than would have been achieved across the board had the levy monies been used by the subscribers at their own hand.

### *Divided accountabilities*

55. As a statutory levy-funded body, SFIA is something of a cross between a standard non-Departmental public body and a voluntary co-operative or trade association. It is funded by a particular industry, and exists to serve the interests of that industry. At the same time, it is accountable to Parliaments in the various parts of the UK, and its members are appointed by Government Ministers. These mixed characteristics are unavoidable given the basic rationale for a levy body, which is that

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<sup>3</sup> Para 5.6.

the industry sector in question is not in a position to take the collective action which is in its own best interests without intervention from a higher authority.

56. Because it is set up by statute, it is right that SFIA should be in some respects accountable to Ministers and Parliaments. But because it is paid for by industry and exists to serve their interests, it is important also that Authority is accountable to the industry.

57. There are dangers in this dual accountability. Unlike with a standard NDPB, Ministers have no direct financial interest in ensuring that the SFIA budget is kept to the minimum consistent with delivering its functions effectively. Nor do they have any benchmark against which to judge whether it is prioritising its programme effectively in terms of the best interests of the industry, rather than in terms of the Government's and the Devolved Administrations own policy priorities. Members of the industry are much better placed to judge where the priorities should lie for SFIA services, and whether the overall level of service should be reduced, increased or kept at the same levels, but they are in no position to give collective expression to, let alone enforce, their views. The result is that SFIA's overall level of expenditure is relatively free from regular scrutiny when compared to that of other public bodies (we are not aware that the option of reducing the levy has been given serious consideration in recent years); there is no rigorous external scrutiny of the programme against industry objectives; and there is a danger government priorities may be given precedence over industry ones.

58. The aim should be to put in place arrangements which ensure that the Authority is much more responsive to its levy payers while reserving the ultimate authority of Ministers as a back-stop. As discussed in paras 110 to 112 below, we do not consider that adequate accountability to the industry can be secured simply through a strengthening of industry control over Board appointments, or through strengthening the role of Advisory Committees. Other options are considered further in paras 115-124 below.

## Section III: Findings – specific issues

### *Role and functions of SFIA*

#### Responses to consultation

59. Our consultation paper noted the statutory remit of SFIA and outlined its current activities under the five headings of industry development, market analysis and economics, marketing and PR, training and technology. It noted key changes in the structure of the sea food industry over the 25 years since SFIA was established, and in the institutional context within which SFIA operates. We invited views on whether there was still a role for SFIA, and on priorities for its work.

60. Overall, a substantial majority of our 50 respondents thought that there was a continuing role for the Authority, with only seven respondents arguing that it should be wound up. However, a good proportion of those broadly supporting its continuation also favoured a significant rethink or refinement of its role. Major concerns were to align the SFIA more closely with the industry rather than with Government, and to challenge the imposition of levy on imports.

61. Mixed feelings about the continuing case for SFIA were particularly marked among levy payers, of whom there were 14 among our respondents<sup>4</sup>. Six of the 14 (two medium and four small levy payers) were opposed outright to the continuation of SFIA, stating in very strong terms their opposition to compulsory funding of a body from which they felt they derived no benefit. While not seeking the immediate abolition of SFIA, a further 5 levy payers argued for substantial change, in one case proposing abolition of the compulsory levy. This group included three of the largest levy payers, the tenor of whose responses can be judged from the extracts below:

"A welcome rare opportunity.. to raise some comments on a body we have so little to do with but pay so much into." (Icelandic UK Ltd)

"For a large levy payer I do not believe we get value for money". (Royal Greenland Ltd)

"There is no raison d'etre for the SFIA levy on ... imports other than an unfair and additional tax on our industry". (Lyons)

62. Three other levy payers expressly stated that they saw a continuing role for SFIA, including one large levy payer<sup>5</sup> who said that they "would be horrified to think that the SFIA should cease". SFIA's ability to bring together and represent views across the whole industry was of particular importance to these respondents.

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<sup>4</sup> This number includes 1 small levy payer from the catching sector and, from the importing/distribution/processing sectors, 4 large levy payers, 3 medium and 7 small. We define large as those paying over £100k in levy in a year, medium as those who pay between £100k and £20k, and small as those paying less than £20k

<sup>5</sup> This respondent asked for their response to be treated in confidence.

63. Turning to the detail of what SFIA should be doing, there were a wide range of views expressed as to priorities, with few marked themes or patterns. The activities which arguably attracted the most support from a wide range of respondents were:

- SFIA's work in providing a focal point for the industry and a link with government;
- its role as a central source of market and industry information for the industry and others;
- its work in monitoring and advising on new food legislation (but with the notable exception of the FDF who have reservations about its involvement with this work);
- recent work on traceability and vessel accreditation.

64. SFIA's work in marketing and promoting fish consumption was a controversial area, with many respondents arguing that the Authority should focus on the supply rather than the demand side of the industry. Conversely, the concerns expressed about lack of pay back for levy paid on imports, as reported in paras 60 and 61 above, were sometimes associated with arguments for a greater focus on promoting seafood demand.

#### SFIA's role and functions - conclusions

65. We have no simple and conclusive view to offer on SFIA's future role. In section II we have pointed to tensions and contradictions at the heart of the Authority's current constitution and funding. More work needs to be done to resolve these issues by sponsor Departments and by SFIA management before final decisions can be taken on its future role and priorities. Tying in with views set out elsewhere in this report, we suggest that this work is undertaken in four stages as set out below.

##### *Stage 1: determining SFIA's purpose and core constituency*

66. Paragraphs 36 to 42 above describe the tensions between SFIA's role in meeting the needs of the UK-based fishing industry which has traditionally been at the heart of its business, and providing a valued resource to the wider seafood industry sourced largely by imported fish. As argued in those paragraphs, SFIA and sponsor Departments need to develop an agreed statement of how they now interpret the scope of the term 'sea fish industry', and where they consider that its common interests now lie.

##### *Stage 2: changing the scope of the levy requirement*

67. Having reached a view on SFIA's purpose and core constituency, it will be the job of sponsor Departments to take whatever steps may be necessary to apply the levy requirement to all businesses in the sea fish industry as defined. This is discussed further in paras 73 and 74 below.

*Stage 3: developing a plan of action to meet the needs of the constituency*

68. As a next step we would like to see SFIA management to produce a broadly costed forward plan setting out how it proposes to meet the needs of the industry. In drawing up the plan, they should assess current activities and proposals against the two key levy principles set out in paras 51 and 52 above, namely:

(i) Any activity paid for by levy must be justifiable on the basis of its contribution to the profitability of the levy paying community, having regard to the interests of consumers. We would expect activities to support a wider public interest agenda normally to be financed by government grant, or pursued through other structures or arrangements.

(ii) Levy payers should expect to benefit from activities financed by the levy broadly in proportion to their contribution, taking one year with another. This does not mean that the Authority should seek crudely to give back resources to different sectors of the industry in proportion to what they pay in. It means rather that levy funded activities should benefit the industry as a whole.

69. In drawing up the forward plan, other considerations are as follows:

(i) SFIA should be free to engage in activities which are not justified in terms of market failure or the wider benefit of levy payers provided that these are not a call on levy funds, and provided also that the work complements SFIA's core activities, for example by developing their contacts with the industry. The Kingfisher service and aspects of its business consultancy may be cases in point. SFIA should give consideration, however, to 'privatising' these activities if they do not meet these tests.

(ii) Where SFIA is engaged in activities in which other public bodies have a leading role, it should ensure that the service it provides does not conflict or duplicate. SFIA management have a good understanding of this principle, and are already working to ensure that their service is complementary to that of other providers, notably in the context of training and regional development.

*Stage 4: seeking the views of the industry and endorsement by Ministers*

70. Having developed a costed forward plan for the services it intends to supply to its levy payers, SFIA should seek the views of the industry on the proposals. Ministers should take account of industry views in deciding whether or not to endorse the proposals. The mechanisms adopted for obtaining industry views and informing Ministers' decisions are part of the wider debate on improving accountability. The issues are explored in more detail in paragraphs 119-124 below.

### ***Extending the remit to salmon, migratory trout and bottled and canned fish***

#### Responses to consultation

71. Our consultation paper noted that salmon and migratory trout are excluded from the definition of sea fish in the 1981 Act, and hence from the scope of the levy. Canned and bottled fish are also excluded under the Sea Fish Industry Authority (Levy) Regulations 1995. We noted that the legislation dated from a period when fish farming was in its infancy, and invited views on whether the legislation should now be amended to bring salmon within SFIA's remit. SFIA's most recent Corporate Plan made a strong case for salmon being brought within the remit.

72. 22 consultation respondents dealt with this question, all but five arguing that salmon should be included in SFIA's remit. Significantly, however, Scottish Quality Salmon, the only respondent from the salmon farming sector, was opposed to a move in this direction. It was supported in this by the Food and Drink Federation. The main argument of those opposed to the extension of the levy to salmon farmers is that the industry has been successful in developing its own technical environmental and quality marketing standards without the intervention of SFIA, and that SFIA's input would be of limited value at this stage.

#### Extending the levy to salmon etc - conclusions

73. Notwithstanding the views of those engaged in the salmon industry, we can see no logic in the current situation. We support the views of the current levy payers that salmon should be added to the remit of the Authority. We set out in para 47 above our concern about the market distortions inherent in the current definitions of sea fish on which levy is payable. If it is agreed that SFIA's core purpose is to support the wider sea food industry, then we are clear that the statutory definition should be amended to include salmon and other fish farmed for consumption, and that it makes no sense to treat canned and bottled fish differently from other fish and fish product imports.

74. If the role of SFIA were redefined in legislation to focus solely on the UK fishing industry, then further consideration would need to be given to whether or not the definition of fishing should include fish farming. Farmed salmon should then be treated in the same way as other farmed fish.

### ***Seafood Scotland and other national/regional structures***

#### Responses to consultation

75. Our consultation paper noted the existence of regional/national bodies like Seafood Scotland and Seafood Cornwall, and invited views on how the industry saw the relationship and demarcation of responsibilities between them and SFIA.

76. The majority of those who responded on this issue were based in Scotland. The comments about the work of Seafood Scotland were generally positive but were accompanied in some cases by expressions of confusion on the respective duties and functions of SFIA and SFS. A couple of respondents called for a greater devolution of SFIA's responsibilities to regional bodies with an accompanying transfer of levy funding.

#### National and regional structures - conclusions

##### *Seafood Scotland*

77. We consider first the relationship between SFIA and Seafood Scotland (SFS), as this was the issue which provoked the most interest among our consultation respondents. Key extracts from the publicity material of the two bodies, showing a considerable degree of overlap in how they describe their respective roles, is attached at Annex B.

78. Our discussions with the industry indicate that there are some differences in the way SFS and SFIA are perceived. SFIA, as a body to the board of which Ministers make appointments, is looked on more as a creature of central government, while SFS, as a (Scottish) trade organisation to which the industry makes board appointments (but does not directly fund), is recognised as more independent. SFIA clearly has a UK-wide remit while SFS operates solely on behalf of Scottish interests. SFS has a good reputation in Scotland, particularly for its staff's willingness to get out and about in local areas, on fishing boats and at markets, and generally to maintain a positive public profile. Views on SFIA are less uniformly positive.

79. But while there are some differences in the way the two bodies are perceived, there is nonetheless considerable uncertainty as to who does what, and to whom stakeholders should look for assistance. This lack of clarity is made more acute as SFS is housed within SFIA's Edinburgh Headquarters, and some of SFS' small staff are seconded in from SFIA.

80. Earlier this year (2005), SFS, SFIA, Scottish Enterprise, Highlands and Islands Enterprise, Scottish Development International and the Scottish Executive commissioned an exercise – the 'Scottish Seafood Sector Joint Planning Initiative' – designed

“...to replace the then existing consultative and informal working arrangements between these various sector support and funding organisations with a more formal strategic partnership approach, aimed at maximising resources, avoiding duplication and continuing to work closely to deliver [better] results.”

81. Flowing from the exercise, there seems now to be a better understanding among the bodies themselves who should take the lead on a wide range of issues and projects. We therefore endorse the value of that exercise. Where in our view some work remains to be done is in explaining to actual and potential customers and stakeholders which of the bodies involved takes the lead on which subjects. We recommend, therefore, that the bodies concerned take forward the 2005 exercise to its

logical next step either to provide simple clarification much more widely to external customers or to establish a one-stop shop address or access point for all seafood-related enquiries.

82. While there is considerable potential overlap in the activities of the two bodies, there is a key difference in their core purpose. SFIA's job is to promote the interests of the UK sea fish industry at large. SFS by contrast is concerned to promote the interests of the Scottish industry, even where they are in competition with other parts of the UK industry. This difference of purpose ultimately dictates the relationship between the two bodies, demanding that they maintain independence of each other. Seafood Scotland must be free to work wholeheartedly to promote the interests of the Scottish industry even where these conflict with the interests of other parts of the UK industry. Conversely, SFIA should be seen to be using levy funds only to support activities which are potentially of benefit across the UK industry.

83. Recognising that the two bodies should maintain their independence of each other, there may nonetheless be scope to reduce duplication of activities and, more certainly, to clarify the different roles and responsibilities of the two bodies where their programmes overlap. We recommend that the two bodies formalise their relationship in a published memorandum of understanding. In so far as SFIA seeks to pursue its levy-funded programme agenda through the offices of SFS, then there should also be a formal contract between the two bodies for the provision of services, perhaps in the form of a Service Level Agreement.

#### *Other regions*

84. There are currently three regional bodies in addition to SFS, comprising Yorks and Humber Seafood Group, Seafood Cornwall and the newly established Seafood North West. Yorks and Humber Seafood Group is the largest of these, with a turnover of c £600k, strongly supported by the regional development agency, Yorkshire Forward. In addition, Northern Ireland Seafood Ltd (NIS), a trade association which looks after the interests of the processing sector in Northern Ireland, is sometimes classed with these regional bodies.

85. Few stakeholders commented to us on the role of these bodies, either in response to our consultation paper or in discussions. NIS were an exception, arguing in particular for SFIA to become more involved at the regional level, acting as a catalyst to promote and develop the industry in Northern Ireland.

86. Our comments on the relationship between SFIA and SFS apply also to other regional bodies. Where such bodies exist, SFIA should aim to work through them to deliver services in which they have a common interest. As with SFS, there should be a Memorandum of Understanding setting out the relationship between SFIA and each of these bodies, and any services delivered on behalf of SFIA should be governed by a Service Level Agreement. On the other hand, we do not think it would be practicable or even desirable for the SFIA to seek to promote the establishment of a regional body to cover every area in the UK. SFIA will need to deliver services direct in those areas which are not covered by regional bodies.

87. We support Northern Ireland Seafoods' suggestion that SFIA should be involved as a catalyst in bringing together different interest groups in the NI seafood industry. Cross-industry co-ordination is an important role for SFIA.

### ***Relations with Government***

#### Responses to consultation

88. Our terms of reference invited us review the rationale for and role and functions of the SFIA, paying special attention inter alia to “*how best it can work with Fisheries Departments to deliver the strategic framework and priority tasks of the Departments’ joint and individual fishing strategies*”. To follow this up, our consultation paper invited respondents to comment on how the Authority can best help to deliver the Government’s strategies, and how far it should be seeking to do this.

89. There was perhaps more consensus in the response to this question than on any other issue. Most respondents argued strongly that SFIA is paid for by the industry and should therefore be accountable to the industry. Some argued that any work carried out by the SFIA for Government should be funded by Government. There were concerns that SFIA has in the past been too close to Government and as a result failed properly to represent the industry view. Generally, with the exception of two respondents from outside the industry, there was no enthusiasm for the idea that SFIA should be working closely with Government to pursue policies set out in the Government’s fishing strategies.

#### Relations with Government – conclusions

90. We discuss in paras 55 to 58 above the dual accountability of the SFIA to the industry and to Government, and comment on the dangers inherent in that situation. Our view is that the SFIA exists to serve the interests of the industry, and its first line of accountability must be to the industry, with Government involved only as a backstop. Levy monies should be used primarily to benefit the levy paying community, rather than to pursue a wider public agenda<sup>6</sup>.

91. Having said that, we accept the view put to us by sponsor Departments that there will often be no difference between what Government is proposing for the industry, and what is in its own best interests. We would certainly see it as important part of the job of SFIA to keep up close links with those responsible for fisheries and food policies in Government, and to maintain a good understanding of Government policies. But SFIA management should look to the industry rather than Government in deciding its priorities and setting its agenda.

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<sup>6</sup> See para 51 above, and para 5.6 of RR report

## *Case for a compulsory levy*

### Responses to consultation

92. The consultation paper invited views on whether a compulsory levy remained an appropriate way of financing SFIA.

93. Respondents' views on this broadly corresponded to their views on the future of SFIA. Opposition to the levy was the driver for the minority who argued for the abolition of SFIA. Those who saw a future for the organisation on the whole thought that it should be continue to be funded by levy so as to retain some independence from Government. There was no support for the idea of a voluntary levy; those who commented on this thought it would not work.

94. But while there was a considerable degree of support for the principle of a compulsory levy, many levy payers and their representative organisations expressed major reservations about the way the system currently works. Particular concerns were about the imposition of levy on imports, and the exclusion of salmon and other classes of fish from the scope of the levy. Many thought that the levy should be reduced, perhaps with Government or other sources contributing more.

### Case for a compulsory levy – conclusions

95. The question of whether there should be a compulsory levy is at the heart of this review, and we express views that are relevant to it throughout this report. Compulsory levy is justified only where key principles are met. Drawing on principles established by the Australian Government (attached at Annex C) and on the report of the Agricultural Levy Bodies review, we would summarise these as:

- (i) There must be market failures within the industry or sector which, without statutory intervention, would not be readily correctable.
- (ii) Levy income should be used to support collective activities which promote the interests of the businesses who pay the levy. Businesses should benefit broadly in proportion to their contribution taking one year with another.
- (iii) The majority of those who are required to pay the levy should consent to the levy, in the expectation that it will deliver industry-wide benefits which outweigh the costs and which would not otherwise be available.

96. We note that the majority of those from the sea fish industry who responded to our consultation paper saw a continuing role for SFIA in some form, the majority also supporting a compulsory levy of some kind. In these circumstances, we consider that a compulsory levy continues to be justified at least at present. We set out in elsewhere in this report the steps which we suggest now need to be taken to resolve the current tensions and ambiguities about the SFIA's role, and to secure greater accountability to the industry.

## ***Rationalising levy collection***

### Current situation

97. Levy payments are based at present on the weight of fish landed with 26 different prescribed rates applying to different classes of fish and fish products. This range of rates creates bureaucratic complexity.

98. The enabling legislation<sup>7</sup> permits the levy to be based either on weight or on value of fish. It requires that levy rates are fixed through regulations made by the Authority, confirmed by an order of sponsor Ministers, and subject to negative resolution procedures in Parliament. The most recent regulations were made in 1998.

### Consultation responses

99. Our consultation paper invited comment on the possibilities of moving to a 'by value' (*ad valorem*) system of levy payments and of setting uniform rates of levy for all species. Relatively few respondents dealt with this issue (15) the majority of whom were against any change. The reasons given included the argument that the issue had been discussed and rejected before and would be again, the suggestion that variable rates could better reflect the ability of different industry sectors to pay, and that an *ad valorem* rate would be too difficult to administer.

### Rationalising levy collection - conclusions

100. Notwithstanding the views of consultation respondents, we consider that a single *ad valorem* levy rate would be both fairer and significantly easier and cheaper to administer, and we recommend that the regulations are amended to provide for it. We were not convinced by the arguments offered against it. We assume that these negative views are driven either by a concern that particular industry sectors may end up paying more, or by the inflation-proofing upward ratchet that is built in to any system calculated by reference to prices.

101. We believe that these concerns can be addressed in different ways. Paras 115-124 below discuss a number of mechanisms which might be adopted to improve the Authority's accountability to the industry. We recommend that sponsor Departments explore the possibilities further with the industry, with a view to putting effective new arrangements in place as soon as possible. New arrangements should give the industry regular input into decisions about the overall size of the budget, as well as priorities for action. There should be no assumption that the overall SFIA budget would continue to increase in line with price inflation even though *ad valorem* levy rates build in a link to prices.

102. In considering its forward programme and budget, SFIA should estimate the *ad valorem* rate needed to generate the required level of income. The calculations should take account of both costs and income likely to be generated by any change in the remit of the Authority to cover salmon or other species or fish products. The table

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<sup>7</sup> Fisheries Act 1981. Section 4 (3)

at Annex D gives an example of how these calculations might work out; applying levy at an ad valorem rate equivalent to the rate currently paid by the lowest paying sector (shell fish) would generate total income only 17% down on current levels.

### ***Other sources of income***

#### Consultation responses

103. The consultation paper invited comments on whether SFIA should seek to raise more through charging for its services, and on how far it should seek to maximise income from grants.

104. Only a minority of respondents dealt with either of these questions, and neither question provoked particularly strong views. Of those commenting, the majority were in favour of SFIA trying to raise more income from charging, and all but one favoured the Authority to some extent seeking to take advantage of grants.

#### Charges and grants – conclusions

105. SFIA will need to continue to make a judgement as to how far it should seek to impose charges on the industry for the services it provides. There will continue to be some services for which it would not be practicable to charge (the supply of industry information, the promotion of cross sector co-operation etc), and others where the imposition of a charge would be counter-productive by discouraging the use of a service designed to promote the wider industry interest (eg aspects of training). On the other hand, as set out in para 69 (i) above, if and where SFIA is involved in the provision of services which are or might be available on the open market, then it should aim fully to recover the costs of the service through charging. SFIA should be involved in such services only where they are complementary to its core activities.

106. The Authority should aim to take full advantage of government grants where these are available to support its programme. It should however be careful to avoid using levy income as match funding to attract grant where the activities to be financed are not central to levy payers' interests.

### ***Board appointments and advisory committees***

#### The consultation responses

107. Our consultation paper noted that the legislation currently provides for Ministers to appoint up to 12 Board members, four of whom – including the Chair and Deputy Chair – must be independent of the industry. It also noted that the Authority has established five industry advisory committees covering each of the main seafood species groups with the objective of maintaining close links with all sections of the industry. The paper invited views on the current arrangements for Board

appointments, and on how stakeholders view the role and importance of the advisory committees.

108. The issue of Board appointments was relatively contentious among respondents, with many feeling that the industry should have more direct influence and/or arguing for greater transparency. There were a number of comments also that the traditional catching sector is over-represented. The issue of independent members was less contentious; more than three quarters of respondents were happy that the Board should continue to include at least some members who are independent of the industry.

109. Most of those who commented were in favour of the industry advisory committees, with respondents commenting that they offer a useful forum for debate and that they play an important part in maintaining links between SFIA and the industry, and in informing the development of SFIA policies and programmes. Concerns were that their make-up was too dominated by internal politics, that they were not sufficiently in touch with individual businesses and, in the case of a couple of respondents, that they were simply not very effective.

#### Appointments and advisory committees – conclusions

110. We see no easy solution to stakeholder concerns that the industry should have more direct influence over Board appointments. There are essentially three reasons for this. First, we consider it right in principle that Ministers should have the ultimate responsibility for appointing Board members; this is appropriate for a statutory body, and consistent with the ‘back-stop’ role which we have referred to in para 58. Second, given the number and range of sector and regional interest groups, it would not be possible to give each the right to be represented on the Board without creating a Board which was far too big to be capable of operating efficiently. And third, short of radically amending the legislation to give levy payers rights comparable to those of shareholders in voting for the Board membership of public companies, we do not see how in practical terms the industry could be given direct control over appointments.

111. The debate about the make-up of membership of the Authority is not new; it was raised in almost every speech on the second reading of the Fisheries Bill which set up the SFIA back in 1981. The then Minister of State at the Ministry of Agriculture, Fisheries and Food commented in his summing up that: “Unless we have an inordinately large authority .... it would be difficult ...to have total representation of all parts of the industry and all geographic areas”. He hoped that “the industry will be unselfish and will show responsibility and common purpose in working with representatives, even though individual sections and areas may not be represented”.<sup>8</sup>

112. Our conclusion is that there is no fully satisfactory way of meeting all concerns for representation, just as there was not in 1981. We recommend that the current statutory and administrative arrangements for Board appointments should continue unchanged, and that different mechanisms should be established to improve the influence which the industry has over the Authority’s agenda. We return to this question in para 115 below.

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<sup>8</sup> Hansard. 12 January 1981, column 824. The Minister was Mr Alick Buchanon-Smith

113. But having said that the formal arrangements for appointments should remain unchanged, we have some sympathy with concerns about the balance of the current board. Of the eight 'industry' members, two have a background in the processing sector, one is involved in retailing, and the remaining five all have their base in the catching sector. If SFIA's role is to support the wider sea food industry supplied largely by imports, then this dominance of the Board by the catching sector seems undesirable.

114. The role of advisory committees also featured in the debate in 1981, when the Opposition spokesman queried whether the new Authority would be supported by an advisory body<sup>9</sup>. The Minister responded that there would be no statutory arrangements to continue the large advisory councils which had supported the Herring Industry Board and White Fish Authority, but that it would be open to the Authority to set up its own consultative machinery<sup>10</sup>. The SFIA's industry advisory committees thus fill a role which was recognised in 1981 and remains relevant today. They have the support of most stakeholders, and should continue broadly unchanged.

### ***Improving accountability to the industry***

115. Throughout this report we have noted a clear need to strengthen the arrangements through which the SFIA is accountable to levy payers and the wider seafood industry. Some effective arrangements for accountability to the industry are in our view essential to ensure that the Authority is focussed on the industry's needs, and provides value for levy payers' money. We discuss below a number of different mechanisms which might be developed to promote SFIA's responsiveness to the requirements of the industry, each of which has merits but also shortcomings. We recommend that sponsor Departments explore the options further with the industry, with a view to deciding what new arrangements should be put in place.

#### Levy payers' ballots

116. A 'sunset clause' is one option for increasing accountability, discussed in the Radcliffe report in a section entitled '*Taking account of the views of levy papers*'<sup>11</sup>. Under this kind of arrangement, levy payers have an opportunity to vote at regular intervals in a ballot on whether or not a particular levy should continue. According to the Radcliffe report, five yearly ballots of this kind are in operation for mandatory levies in Australia. Such arrangements offer a clear mechanism for checking whether a levy remains acceptable to the majority of those who pay it, and for ensuring that those who manage levy-funded activities remain focussed on levy payers' requirements.

117. The Radcliffe report notes that regular ballots of this kind have disadvantages; they are time-consuming and costly, and "they can result in distortion of effort as those whose jobs may be affected seek to obtain a particular ballot result rather than concentrating on what they are supposed to be doing". Rosemary Radcliffe advocates a modified approach under which dissatisfied levy payers would have the right to

<sup>9</sup> Hansard. 12 January 1981. Col. 761. The Opposition spokesman was Mr Roy Mason.

<sup>10</sup> Ibid. Col. 824/5.

<sup>11</sup> Box V.3. Page 114.

demand a ballot, and steps would be taken to wind up the levy following an adverse vote result. She proposes conditions to avoid the mechanism being used frivolously, including a requirement that a minimum of 5% of levy payers must demand the ballot, and that the right should not be exercisable more than, say, every three years. The report concludes that such a power is an important one in the overall system of governance albeit one which, with proper arrangements in place for taking account of the views of the industry, should only need to be invoked occasionally, if at all.

118. While we see the attractions of this approach, we note that it also has disadvantages. A ballot of levy payers would take account only of the views of those who actually pay the levy which, important though they are, may not fully reflect views in other parts of the sea fish supply chain which contribute only indirectly to the levy. While a ballot could provide crude 'yes/no' answers on straightforward questions (such as whether a mandatory levy continues to be justified), it would be a less suitable vehicle for exploring the balance of views in the industry on the size of the SFIA budget, or on its priorities for action. Ballots would lead to substantial uncertainty for SFIA staff, clients and suppliers. Finally, the process would be complex and time consuming for all concerned. While SFIA might manage the ballot, the four sponsor Departments would need to be closely involved in considering the results and if necessary acting on them.

#### Formal consultation on budget and forward programme

119. An approach put to us by SFIA and sponsor Departments is that SFIA should build on arrangements which it already has begun to improve industry involvement in its programme and budget setting. The proposal is that SFIA should develop a budget and costed forward work programme for a rolling period of perhaps 3 years ahead which it would then put out to formal consultation with levy payers and others in the supply chain. Consultees would be invited to offer views, giving their reasons for any aspects of the programme they would like to see changed. Their responses would be published, thus offering transparency. SFIA would adjust its proposals in the light of consultation responses, justifying any decisions not to accept particular views. As part of the normal corporate planning decision process, Ministers would then judge whether to accept the revised budget and programme in the light of the weight of comments.

120. We welcome the steps SFIA is taking to improve its relationships with the industry, and consider that formal industry consultation on SFIA's forward budget/programme would be an important step forward in increasing its responsiveness to the industry requirements. But it can be argued that the proposal is not enough to ensure that the SFIA would be ultimately responsive to what the industry wants, not least because it provides for no mechanism to capture an independent industry-wide overview on which Ministers might base judgements about the majority views in the industry.

### Consultation combined with levy payers' ballot

121. Some combination of consultation by SFIA on its proposed budget and programme with a ballot of levy payers could be worth further consideration. For example, if at the end of the consultation process described in para 119 above SFIA's budget and programme as revised was put to levy payers for endorsement or otherwise in a ballot, then there would be very much more obvious accountability to the industry. While the vote would formally be on the budget and programme, a failure to endorse the programme would send a clear signal to Ministers to consider the implications for the body's future.

122. In any ballot of SFIA levy payers, we consider that it would be appropriate to weight levy payers votes broadly in line with the size of their contribution. This is necessary to take account of the very wide range of levy amounts currently paid by different businesses, from those who pay over £500k a year at one end of the scale to those who pay only a few pounds at the other. It would also be appropriate to invite views from industry representative bodies alongside any ballot of levy payers, so that the views of non-levy payers across the sea food supply chain could also be taken into account by Ministers in reaching decisions.

### Improving accountability to the industry - conclusions

123. While we are concerned to see new mechanisms put into place to improve SFIA's accountability to the industry it serves, and hence its responsiveness to the requirements of the levy paying community, we accept that there is no easy answer on how best to do this. The various mechanisms discussed above are complex matters with few obvious precedents on which to draw, and we are conscious that we have not fully explored all the possibilities. In addition to wider consultations and the possibility of ballots, there are other options that the industry might like to see examined, such as re-visiting the opportunities for greater industry influence over board appointments, or considering the transferability of the governance ideas suggested in the Radcliffe report.

124. We recommend that sponsor Departments explore the options further in discussion with the industry, with a view to agreeing effective new arrangements for improved accountability. We would expect the Food and Drink Federation, the British Frozen Fish Federation and the Scottish Seafood Processors Federation to be among the industry representative bodies included in the discussions, and ballot options to be included on the agenda for discussion. We would like to see the work put in hand urgently, and new improved arrangements for accountability put into effect as soon as possible.

**ANNEX A****REVIEW OF SEAFISH INDUSTRY AUTHORITY****TERMS OF REFERENCE**

"To undertake a review of the rationale for, and role, organisation, funding and functions of, the Sea Fish Industry Authority, paying special attention to

- (i) how the Authority responds to the needs of the industry it serves; and, as part of that function
- (ii) how best it can work with Fisheries Departments to deliver the strategic framework and priority tasks of the Departments' joint and individual fishing strategies;

and to make recommendations to the Authority's four sponsor Departments on whether:

- there is a continuing need for the Authority and, if so
- there should be changes to its remit, membership, funding arrangements or mode of operation.

The review should take account of the emerging conclusions of the current Review of Levy Bodies operating in the agricultural sector."

## **Sea Fish Industry Authority and Seafood Scotland: a comparison of statements of purpose**

### *Sea Fish Industry Authority*

The SFIA's mission statement is

“working with the seafood industry to satisfy consumers, raise standards, improve efficiency and secure a sustainable future”

and the website goes on to describe SFIA as follows:

“The Sea Fish Industry Authority (Seafish) works across all sectors of the UK seafood industry to promote good quality, sustainable seafood. [Its] research and projects are aimed at raising standards, improving efficiency and ensuring that [the UK] industry develops in a viable way. [SFIA is] the UK's only cross-industry seafood body working with fishermen, processors, wholesalers, seafood farmers, fish friers, caterers, retailers and the import/export trade. A Non Departmental Public Body (NDPB), [SFIA is] sponsored by the four UK government fisheries departments and funded by a levy on seafood. [It was] established in 1981.”

### *Seafood Scotland*

The SFS website describes that body in not dis-similar terms

“Seafood Scotland is a trade organisation that was set up in 1999 by the main representatives of the Scottish seafood industry to promote, market and develop Scottish seafood with the aim of improving the value return to industry. [SFS is] involved with all sectors of the Scottish seafood industry throughout the supply chain from catching and processing through to retail, food service and consumption. Seafood Scotland undertakes quality and modernisation work on vessels as well as in harbours, markets and processors. [SFS] can also help seafood businesses across the board with new product development and marketing. As a trade representative, [SFS attends] major expositions and events all over the world, promoting Scottish seafood and networking for the future development of the industry. [SFS] also support[s] local food festivals, health and educational initiatives and national as well as international promotions of Scottish seafood. [SFS works] closely with trade, local and national media to ensure maximum positive coverage of the Scottish seafood industry and its produce. .... [SFS] is funded largely on a project-by-project basis by Scottish Enterprise, the Sea Fish Industry Authority ... and through EU “Financial Instrument for Fisheries Guidance” (FIFG) funding (with additional state aid from the Scottish Executive)...Although a completely separate organisation from Seafish, SFS subcontracts much of its quality and modernisation work to Seafish staff, who are in the field working on SFS behalf.”

## ANNEX C

## Guidelines and Principles

[www.daff.gov.au](http://www.daff.gov.au) > Levies > Guidelines and Principles

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### Introduction

The Government introduced 12 Levy Principles in January 1997. These Principles must be met when an industry or group of levy payers proposes a new, or a change to an existing Statutory Levy (Levy Principles provided in Attachment 1).

Since these principles were introduced some difficulties have arisen in their implementation, requiring the Government to delay the introduction of some levies until further industry consultation processes have been completed.

As a result, Levy Guidelines have been developed to complement the 12 Levy Principles and assist rural industries in the consultation processes that should be followed before the Government formally considers the levy proposal brought forward by an industry. After some 18 months, minor revisions and updating have been done to improve the operation of the Guidelines.

### Guidelines

A) The initiator of a **new** levy must be able to demonstrate it has met the first 11 levy principles. The principal criteria to be satisfied are market failure, net industry benefit and that the application of the levy is practical. Market failure is avoided where only collective action by levy payers will ensure the desired outcome cost effectively. Net industry benefit establishes the case for industry benefits exceeding the costs of raising and funding the levy. The collection of the levy needs to be practical.

B) For a change to an **existing** levy that is of an administrative nature, designed to fine tune the rate of levy in circumstances of fluctuating production and prices, then Levy Principle 12 applies.

C) For a **new** levy, or a **change to an existing levy that is not simply administrative**, (ie will substantially change the level of the levy or direction of the activity that the levy funds), the initiator must take effective steps to inform all actual or potential levy payers of the levy proposal. The levy payers should be informed of its purpose and intended industry benefit by widely promoting the proposal in industry forums/meetings, newsletters and/or advertising in the rural press, in advance of a vote being taken at industry meetings or through a postal vote conducted by an industry. The objective is that all levy payers are aware of and have the opportunity to express a view on the proposal.

D) Due to the fact that industries have differing arrangements for voting at industry meetings, there will be some flexibility on how a vote of levy payers is taken to support or reject a new levy or a substantial change to a levy. For industries that have a statutory, corporate or industry organisational structure that prescribes the voting rules and processes in its supporting regulations or constitution, the Government will accept the voting rules prescribed in order for the industry to demonstrate majority support for the proposal, providing Guideline C has been met.

E) In circumstances where no such formalised voting industry arrangements exist under statutory, corporate or industry organisational arrangements, it is the Government's intention that the initiator should conduct a vote of actual or potential levy payers to demonstrate that a majority of levy payers in the industry support the proposal. The only exception to this would be if the proponents can demonstrate that voting in this way would be prohibitively expensive.

F) In circumstances where an initiator of a new or change to an existing levy has clearly been able to satisfy Guideline A, but has been unable to conduct a vote under Guideline E, because it has not been cost-effective to do so, then they will need to demonstrate majority support by providing evidence that a thorough industry-wide consultation processes has been followed and that industry is widely supportive of the proposal. From the date the levy proposal, including the supporting documents relating to the level of support, is formally lodged with the Minister or Parliamentary Secretary dissenters have three months in which to lodge a formal objection. Dissenters should include in their objection reasons why the levy is opposed, with analysis of the pro levy argument and clear evidence they can demonstrate support of at least 50% of the actual or potential levy payers to oppose the implementation of the levy. Objections considered irrelevant, frivolous or vexatious, or objections having little basis in fact will not be proceeded with.

G) Where evidence of the extent to which net industry benefit and market failure tests are met is not clear cut, the required level of support by industry for the proposal is 75%. Where the initiator has satisfied Guideline A and C but has been unable to conduct a vote under Guideline E, due to prohibitive cost, then they will need to demonstrate majority support by providing evidence that a thorough industry-wide consultation processes has been followed and that that industry is widely supportive of the proposal. From the date the levy proposal, including the supporting documents relating to the level of support, is formally lodged with the Minister or Parliamentary Secretary dissenters have three months in which to lodge a formal objection. Dissenters should include in their objection, reasons why the levy is opposed, with an analysis of the pro levy argument and clear evidence they can demonstrate support of at least 25% of actual or potential levy payers to oppose the implementation of the levy. Objections considered irrelevant, frivolous or vexatious, objections having little basis in fact, will not be proceeded with.

H) Decisions to instigate management of emergency animal and plant health issues, pest incursions and product safety, should on economic grounds be taken only if there is an expectation that the sum of the net industry benefit and the public benefit less the cost to industry and government is clearly positive. Where there are pre determined arrangements for responding to emergencies, and where there are pre-determined cost-sharing arrangements between governments and industry, these pre-determined arrangements will prevail.

I) As a general rule, where funding for research and development provides net industry benefit and meets the criterion of market failure, industry needs only to satisfy Guidelines B to F to meet the Guidelines.

J) Where industry support is provided to Government efforts in trade access negotiations, market failure will be considered on a case by case basis. Where evidence regarding net industry benefit and market failure is limited, Guideline G applies.

K) These Guidelines do not apply to the National Residue Survey (NRS), except where participation in the NRS is at the voluntary instigation of the industry concerned, such as to meet quality assurance arrangements. Where participation is considered necessary by Government to meet certification requirements for domestic and/or international trade, or participation is in the national interest where there is a significant risk to public health or to trade, the Government may require an industry to participate in the NRS and may implement statutory arrangements to recover the cost of the survey from industry.

L) Where there is failure to demonstrate a net industry benefit and market failure, statutory levies not be supported.

M) Statutory levies are not to be used to fund agri-political activities.

Footnote : DAFF will provide advice to initiators of a new levy proposal or for a change to existing levy on appropriate industry consultation processes with respect to meeting these Guidelines. This includes the need to widely disseminate relevant levy information to levy payers and providing the opportunity for levy payers to express their views on the levy proposal, before bringing recommendations to Government. Processes followed should be documented. The Government may also decide on the need for an independent professional assessment before approving the levy.

A Summary Pro-forma (attached) has been prepared for use by Industry in preparing its submissions to Government.

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Levies  
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#### **SUMMARY PRO-FORMA FOR THE DETERMINATION OF STATUTORY PRIMARY INDUSTRY LEVIES**

(TO BE PREPARED BY INDUSTRY AND ASSESSED BY DAFF BEFORE SUBMISSION TO GOVERNMENT FOR LEVY APPROVAL\*)

<p><b>1. Purpose of compulsory levy</b></p> <p>(describe type of levy, the reason for levy and its proposed purpose. Define whether it is a new levy or a change to an existing levy)</p>	
<p><b>2. Explanation of type of market failure that levy will overcome</b></p> <p>(an outline of the type of market failure that the proposed levy will overcome, including a description on how the benefits cannot be captured by individual firms acting alone, why collective action is the best solution)</p>	
<p><b>3. Size of industry and/or public benefit</b></p> <p>(describe and quantify where possible the size of the industry benefit and/or public benefit that will flow from the proposed levy, together with the costs of imposing the proposed levy and thus present the case for an industry net benefit)</p>	
<p><b>4. Relative efficiency criterion</b></p> <p>(outline why a compulsory levy is the most cost-effective way to collect the industry funds. Would a voluntary levy achieve</p>	

the same result?)	
<p><b>5. Industry consultation process</b></p> <p>(is the 50% or 75% test of industry support the appropriate % given the type and extent of market failure and net industry benefit?)</p> <p>(outline how the 50% or 75% test has been satisfied, for example, has a vote been taken? If so, describe the voting process and the results. If not, describe how industry support has been ascertained to satisfy the 50% or 75% test including industry consultation processes for all levy payers)</p>	

\* Please list here the background source documents from which this Summary has been derived.

#### **Attachment 1 :General Principles Applying to Proposals for New and Changed Primary Industry Levies**

1. The proposed levy must relate to a function for which there is a significant market failure.
2. A request for a levy must be supported by industry bodies representing wherever possible, all levy payers, or by levy payers directly. Otherwise a levy may be initiated by the government in the public interest in consultation with the industries involved.
3. The initiator of a levy proposal shall provide an assessment of the extent, the nature and source of any opposition to the levy, and shall provide an analysis of the opposing argument and reasons why the levy should be imposed despite the argument raised against the levy. The initiator shall also demonstrate that all reasonable attempts have been made to inform levy payers of the proposal and that they have had the opportunity to comment on the proposed levy.
4. The initiator shall provide an estimate of the amount of levy to be raised to fulfil the function to be paid for by the levy, a clear plan of how the levy will be utilised, including an assessment of how the plan will benefit the levy payers in an equitable manner, and demonstrate acceptance of the plan by levy payers in a manner consistent with Principle 2.
5. The initiator must be able to demonstrate that there is agreement by a significant majority on the levy imposition/collection mechanism, or that, despite objections, the proposed mechanism is equitable in the circumstance.
6. The levy imposition must be equitable between levy payers.
7. The imposition of the levy must be related to the inputs, outputs or units of value of production of the industry or some other equitable arrangements linked to the function causing the market failure.
8. The levy collection system must be efficient and practical, and must impose the lowest possible "red tape" impact on business, subject to transparency and accountability requirements.
9. Unless new structures are proposed, the organisation or organisations which will manage expenditure of levy monies must be consulted prior to introduction of the levy.
10. The body managing expenditure of levy monies must be accountable to levy payers and to the Commonwealth.
11. Levies must be reviewed against these principles following a specified period and in a manner determined by the Government in consultation with industry at the time of the imposition of the levy.

#### **Changes to Existing Levies.**

12. The proposed change must be supported by industry bodies or by levy payers, or by the Government in the public interest. The initiator of the change must establish the case for change and, where an increase is involved, estimate the additional amount which would be raised, indicate how the increase would be spent and to demonstrate how this expenditure would benefit levy players.

#### **Attachment 2**

#### **BACKGROUND PAPER**

## MARKET FAILURE AND NET INDUSTRY BENEFIT

The economic rationale for governments to facilitate industry wide levy funding of research, promotion and other industry programs rests in part on two propositions. First, the nature and dispersal of program benefits are such that a private investor would not profit from supplying them. For example, the results of some research are widely applicable within the industry, but the benefits are not always appropriable by private investors. Second, levies represent a source of funds with low enforcement and collection costs, largely because industry participants recognise the benefits of cooperative behaviour.

Assessment of a particular levy proposal can be approached by seeking answers to the series of questions outlined below.

The relevant questions are:

- whether the industry benefits are likely to exceed the levy costs - including collection and other administrative costs;
- whether there is market failure, and
- whether the levy approach will facilitate operation of the program and provide the lowest cost means of finance in the particular case.

## INDUSTRY BENEFITS

In the circumstances in which levies are likely to be considered, program benefits will generally accrue as a result of group actions. Nevertheless, industry benefits from the program will simply be the sum of benefits to all individuals in the industry. If it is apparent that an individual or a group of individuals could profitably organise and finance the program, there is no case for government provision of levy funding. In other cases there may be an issue of appropriate definition of the industry or of distribution of industry benefits. The discussion below of 'public benefits' concerns cases where there are significant benefits to individuals who are excluded from any practical definition of the industry for levy purposes.

## MARKET FAILURE

A primary role for government is the setting and enforcement of property rights and related institutions that will facilitate the efficient operation of commodity and resource markets. Where markets fail to provide socially desirable levels of a good, or do so but not cost effectively, there may be a case for other forms of government action.

The rationale frequently used to justify government intervention in industry research is that the results of some research are a 'public good'. Such goods have two key characteristics. First, the use of public good by one person generally does not alter the ability of others to use it. This is described as being nonrival. In essence, nonrivalry encourages 'free riding' by individuals who realise that they can benefit from production of the good as long as somebody pays. Second, it is not possible to prevent others from using it. This is described as a lack of appropriability. Lack of appropriability discourages individuals from producing a good, no matter how much others value it.

In the case of research, if it were simply that research results were not appropriable, a policy solution of providing or strengthening property rights where possible generally would be appropriate. Such a policy would enable private researchers to restrict the use of the research results and recoup the cost of their research in the same way they would recoup the costs of any other investment. However, with research results being nonrival, social benefits from the research would be higher if research results were made available to all at the cost of dissemination of the results. Dissemination costs would usually be small relative to the cost of the research and researchers would be unable to capture sufficient benefits to recoup the costs of the research.

Lack of appropriability of the benefits of individual efforts may also characterise aspects of weed or pest control. One farmer's pest and weed control will benefit neighbouring farmers. But in a free market, those neighbours will pay nothing for the benefit. Conversely, any farmer maintaining a poor standard of weed and pest control will increase the cost of control to neighbouring farmers. Some aspects of weed and pest control may have added problems of nonrivalry. Consider a farmer who uses a pest control regime designed to minimise pesticide resistance in insects. Any resulting lowering of the probability of resistance will be available to all farmers.

Individual incentives to be involved in generic food safety and product promotion campaigns are also likely to be limited by lack of appropriability and nonrivalry of benefits. To the extent that changes in consumer perceptions from such campaigns benefit one producer, they are likely to benefit all. And an individual promoter of a generic product will be able to retrieve part only of the benefits of those efforts.

Not all research results or benefits from promotion are public goods. For example, private investors in research can appropriate some of the benefits by means such as keeping the results secret or, as incumbent firms, taking advantage of their research in the short term. Promotion of product brands allows a producer to appropriate much of the benefit of product design, quality control and advertising. An important test of the

proposition that an industry funded effort is worthwhile is that public goods characteristics dominate for the case at hand.

#### **PUBLIC BENEFIT**

The government role discussed above is to ensure that industry policy or research of potential benefit to rural industries as a whole is undertaken. In some cases there may be substantial benefits to others outside the industry. The two most obvious cases of benefits external to the industry concern research or policies that benefit domestic consumers of farm products and those that improve environmental amenities that are valued by individuals not associated with the industry.

**ANNEX D****SFIA review: possible changes to levy rates**

The following calculations show the impact of applying levy to salmon, trout and canned and bottled fish while setting a single ad valorem rate equivalent to the lowest rate currently applicable.

A	SFIA total levy income 2004-05	£8,652,000
B	Total value of levyable products	£1,508,789,000
C	Average levy (in £) per £ of levyable product : ie (A/B)	0.005734
	Lowest average levy per fish sector = shellfish	
D	SFIA total levy income 2004-05 from shellfish only	£2,040,000
E	Total value of levyable shellfish products	£572,716,000
F	Average levy (in £) per £ of levyable shellfish product : ie (D/E)	0.003562
G	Total levy income (across all sectors) if 0.003562 ad valorem rate applied (ieFxB)	£5,374,269
H	Estimated value of farmed salmon and sea trout (2003 figures)	£300,000,000
I	Predicted levy income from farmed salmon and sea trout at average levy rate of 0.005734 as above : (ie HxC)	£1,720,320
J	Predicted levy income from farmed salmon and sea trout at average levy rate of 0.003562 (shellfish level) as above : ie (HxF)	£1,068,592
K	Total levy at lowest (shellfish) ad valorem rate if farmed salmon and sea trout added to scope of levy (ie G+J)	£6,442,861
L	Estimated value of canned and bottled fish exc salmon (2004 figures)	£205,000,000
M	Predicted levy income from canned and bottled fish at average levy rate of 0.003562 (shellfish level) as above : ie (LxF)	£730,205
N	Total levy at lowest (shellfish) ad valorem rate if canned and bottled fish and farmed salmon and sea trout added to scope of levy (ie G+J+M)	£7,173,066