

An Comhchoiste un Chomhsaol & Gníomhú ar son na hAeráide Tuarascáil maidir le Bacainní ar Imirce Éisc Aibreán 2024

Joint Committee on Environment & Climate Action
Report on Barriers to Fish Migration
April 2024



Membership of the Joint Committee on Environment and Climate Action



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Table of Contents

Membership of the Joint Committee on Environment and Climate Action	1
Stakeholder Engagements	4
Barriers to Fish Migration: An Overview	6
Removal and Mitigation	8
Flood Risk & Hydropower	10
Nature Based Solutions	11
Recommendations	13

Stakeholder Engagements

The Committee held a series of engagements with stakeholders which provided evidence from a broad perspective. These engagements took place as follows:

Organisation	Topic	Witness
06 February 2024	Role of Chairperson and Future Contributions of Inland Fisheries and the Board: Inland Fisheries Ireland	Professor Tom Collins, Chair of Inland Fisheries Ireland, IFI
13 February 2024	Discussion on Fish Migration and Barriers to Fish Migration	Mr Francis O'Donnell, Chief Executive Officer, Inland Fisheries Ireland, IFI
		Dr Cathal Gallagher, Head of Research, Inland Fisheries Ireland, IFI
		Mr Mark Horton, All-Island Director, Rivers Trust
		Mr Kris Murphy, Slaney Rivers Trust
		Professor Ken Whelan, Vice-Chair, Atlantic Salmon Trust

05 March 2024	Discussion on Fish	Mr Jim Casey, Head of
	Migration and Barriers	Flood Risk Management,
	to Fish Migration	Office of Public Works,
		OPW
		0. 0.5
		Cian O'Donaill, Head of
		Flood Risk Management,
		South West Section, Office
		of Public Works, OPW

Cathaoirleach's Foreword



The Committee agreed to examine the issue of barriers to fish migration in Irish rivers as part of its 2024 work programme. The Committee held a number of public engagements and received written submissions on this issue and acknowledged the difficult balance between flood risk management and conservation and enhancement of fish populations.

This report contains ten recommendations which the Committee feels will serve to meaningfully address factors inhibiting the effective removal and mitigation of barriers in the Irish river network.

I would like to express my appreciation to all the witnesses for their valuable contributions and to members of the Committee for their dedicated work.

Brian Leddin T.D.

Chairman

Joint Committee on Environment and Climate Action

April 2024

Fish Migration and Barriers to Fish Migration: An Overview

- The Committee noted that Irish rivers are heavily fragmented by weirs, dams, sluices, culverts and other artificial barriers. Mr Francis O'Donnell, CEO of Inland Fisheries Ireland, IFI, stated that 73, 377 potential barriers including weirs, culverts and dams have been identified in the national river network.
- 2. The Committee noted that man-made river barriers in Ireland originated in the 18th and 19th centuries, as waterways became increasingly used for land drainage, navigation, and stream power for mills. In more recent decades, rivers have been harnessed for the generation of energy through hydropower. Human manipulation of Irish rivers has also occurred in order to manage the risk of flooding, the severity of which is increasing due to climate change.
- 3. Stakeholders highlighted the problem of interrupted flow patterns caused by river barriers, the damaging effects of which are becoming increasingly apparent. The Committee noted that these changes not only directly affect fish migration, but also alter sedimentation and water temperature, further altering the natural river environment.
- 4. The Committee noted that barriers in Irish rivers are having a devastating impact on biodiversity, particularly on populations of migratory species such as Atlantic salmon and European eel. Mark Horton, All-Island Director, the Rivers Trust, informed the Committee that in the mid-1970s, the number of wild Atlantic salmon returning to Ireland was about 1.7 million whereas today, it is around 150,000. Ireland's eel population has also decreased by over 90% since the 1970s. Mr Horton added that:

"The loss of the Irish salmon would not only diminish our natural heritage but also rob us of the enduring spirit they symbolise, as well as have a detrimental effect on the Irish economy." 5. The Committee acknowledged the need for immediate and increased removal and mitigation of river barriers and other negative consequences of human activity in the river environment. Stakeholders emphasised that, without such initiative, many species in Irish rivers will remain in a state of catastrophic decline and eventually become extinct.

Removal and Mitigation

6. The Committee noted that, of the potential barriers identified in Inland Fisheries Ireland's National Barriers Programme, NBP, around 31, 170 have now been assessed. The current Programme (2024-2027) targets the mitigation of around 257 barriers. The Committee further noted that the general mitigation of barriers in Irish waterways will be ongoing for decades and will require sustained funding. The Committee noted the prospective funding of barrier removal and mitigation through the Future Ireland and Infrastructure, Climate and Nature Fund Bill, which was introduced to the Houses of the Oireachtas on 25th March 2024. Professor Ken Whelan, Vice President, Atlantic Salmon Trust commented that:

"The removal or mitigation of such barriers presents a unique opportunity for rejuvenating rivers and restoring ecological free passage for migrating fish. These efforts align with the European biodiversity strategy, which aims to restore 25,000km of free-flowing rivers in the EU by 2030."

- 7. Stakeholders outlined that, where possible, the removal of a barrier should always be the first solution. The differing capacities of various fish, for example, make it very difficult for barrier passages to produce a favourable situation for the whole biosphere. The Committee noted that barrier removal and the restoration of the natural river process, in so far as possible, is the best course of action.
- 8. The Committee noted the removal of 100 river barriers in the United Kingdom in the past three years alone, leading to the opening of more than 10,000km

of river to migratory fish. It was further noted that, in 2022, some 60 dams were removed across the United States, reconnecting more than 690km of river. Professor Ken Whelan informed the committee of a 45-fold increase in the population of alewives in the Penobscot River following the removal of two major dams. The Committee noted this as an example of the benefit of barrier removal.

- 9. Where barrier removal is deemed not possible, the Committee noted the effectiveness of mitigatory techniques such as rock-ramps and technical fish passages in reducing harm to the natural environment. Mr Francis O'Donnell also specifically noted a series of medium and larger barrier mitigation projects, including the improvement of fish passage on weirs, culverts and bridges.
- 10. The Committee noted the invaluable role played by river trusts in the maintenance and restoration of Irish rivers and aquatic species. Mr Kris Murphy, Slaney Rivers Trust, informed the Committee of the organisation's extensive work in removing barriers on the river Slaney, which is a unique multi-sea winter salmon run river, as well as the logistical problems encountered in doing so.
- 11. The Committee noted the extensive workload involved in barrier removal and mitigation, including multiple surveys, planning, planning applications and finance. The Committee further noted the difficulty of making substantial progress in removing and mitigating barriers without an overall national framework to manage the workload. Mr Francis O'Donnell highlighted the recruitment of 12 new IFI staff this year, with the intention to increase to 36 over a three-year period. The Committee expressed concern that IFI staffing levels will still be too low considering the scale of prospective barrier removal and mitigation projects.
- 12. The Committee noted the extensive work by multiple State bodies and other stakeholders on the River Shannon, as part of the EU Water Framework

Directive. Dr Cathal Gallagher, Head of Research, Inland Fisheries Ireland, IFI, advised the Committee that the current focus of the project is the intended installation of a fish bypass to help maintain fish populations. The cross-body and cohesive nature of this project serves as a template for the multitude of barrier removals and mitigations set to take place across Ireland.

13. The Committee noted the importance of holding consultations with all stakeholders, including local communities, on the development of barrier removal/mitigation programmes and flood defence schemes. Such consultations help to achieve a balanced view of the challenges in managing environmental and societal concerns.

Flood Risk & Hydropower

- 14. The Committee noted the role of the Office of Public Works, OPW, in maintaining 11, 500km of channel and approximately 800km of flood defences. The Committee acknowledged the success of the OPW in managing the Ennis Flood Relief Scheme in sympathy with the natural environment.
- 15. The Committee noted examples of barrier mitigation by the OPW on the rivers Tolka, Dodder, Nore, Fergus, Suir and Brosna. Mr Jim Casey, Head of OPW Flood Risk Management, advised that the OPW is focused on the removal of existing barriers, where possible, and avoiding the creation of new barriers. However, Mr Casey also stated that, given the threat of properties being flooded, barrier removal is not always possible, and in some cases, modification is the best solution.
- 16. The Committee noted the service level agreement between the OPW and IFI, which employs field and desk-based methods to properly assess barriers and mitigate accordingly. The Committee further noted the OPW's increasing incorporation of environmental and nature-based considerations into the management of flood risk.

- 17. Stakeholders emphasised that the Arterial Drainage Act 1945 is outdated, particularly in the face of serious biodiversity loss. The Fisheries (Consolidation) Act 1959, under which the IFI carries out its remit, was also highlighted as needing review.
- 18. The Committee noted a lack of clarity over the ownership of certain riverbeds, resulting in an absence of accountability and inaction over barriers that need to be removed or mitigated. Stakeholders also highlighted legal ambiguities between European environmental directives and the emergency powers of state agencies to deal with flooding.
- 19. The Committee noted the role of ESB Hydroelectric Stations in the provision of renewable energy for 180,000 homes across Ireland. The ESB's growing emphasis on environmental and social responsibility and the strategic rebalancing of hydroelectric generation with fisheries conservation was also noted. However, the Committee noted difficulties encountered by the Slaney Rivers Trust in trying to direct fish away from hydropower barriers, due to the greater flow of water being diverted toward a hydroelectric station.
- 20. The Committee agreed that co-operation between IFI and ESB will be pivotal to the future mitigation of barriers to fish migration. Professor Tom Collins, IFI Chairperson, advised the Committee that there is enormous scope for closer engagements, synergy, and joint actions between IFI, ESB and the National Parks and Wildlife Service, NWPS.

Nature Based Solutions

21. The Committee noted the vital role that nature-based solutions will play in managing the balance between enhancing fish populations and managing flood risk. Stakeholders highlighted the need to raise general awareness of nature-based solutions benefitting the environment, the economy and society as a whole. Dr Cathal Gallagher said that:

"We have an attachment to barriers in Ireland that probably is not reflected in other European countries. We like the amenity value and we look like looking at barriers. It is hard to explain the difficulty those barriers are causing the environment."

- 22. The Committee noted the need for radical nature-based solutions to manage the increasing severity of flooding. Professor Ken Whelan advanced the idea of farmers being compensated for allowing sections of their land to flood to manage flood risk downstream, which is known as upland storage. The Committee noted use of upland storage in the Clonakilty Flood Relief Scheme.
- 23. The Committee noted the effectiveness of wood debris and leaky dams in slowing the flow of water without creating barriers to fish. Networks of nature-based solutions can also be used to build climate resilience within catchments and provide considerable environmental and societal benefits.
- 24. The Committee noted the increasing adaptation by State agencies of nature-based solutions in carrying out their remit. Mr Cian O'Donaill, Head of OPW Flood Risk Management in the South-West region, informed the Committee that new flood relief schemes are now obliged to consider nature-based solutions such as the creation of new woodland, attenuation ponds, peatlands restoration and meandering. The implementation of nature-based solutions at Middleton and Clonakilty was also noted. However, Mr Jim Casey, OPW, highlighted that nature-based solutions, on their own, are unlikely to achieve the level of flood defence that will be required in the face of more extreme weather events.

Recommendations

- The Committee recommends revision of the Arterial Drainage Act 1945 and Fisheries Act 1959 to effectively balance the provision of these laws with the continuing decline of Irish fish populations, and to bring them in line with relevant EU directives.
- 2. The Committee recommends legislative action to address ambiguities surrounding the ownership of riverbeds and barriers, so that issues of accountability do not delay barrier removal or mitigation.
- 3. The Committee recommends that the preservation of migratory freshwater fish and their habitats is legislatively enshrined above barriers so that, in suitable conditions, the restoration of free-flowing rivers is achieved.
- 4. The Committee recommends closer engagement between IFI, OPW, ESB and all State or semi-State bodies with responsibility for Irish rivers in order to increase and co-ordinate resources dedicated to the preservation of Irish fish populations.
- 5. The Committee recommends the establishment of a national framework to support the removal and mitigation of river barriers at scale, so that inherent complexities such as accountability and requisite surveys do not cause prolonged delays and inaction.
- 6. The Committee recommends extensive consultation by relevant State and semi-State bodies with river trusts and communities so that local knowledge, concern, and input is a valued part of barrier removal and mitigation.
- 7. The Committee recommends the widespread examination of, and where appropriate, application of nature-based solutions to mitigate against the increasing severity of flooding.

- 8. The Committee recommends a public awareness campagin to increase public knowledge of nature-based solutions to flooding, as well as the associated environmental and societal benefits.
- 9. The Committee recommends the allocation of funding to support the longterm removal and mitigation of barriers In Irish rivers, including assessment and planning.
- 10. The Committee recommends a review of hydroelectric protocols on water flow so that, where appropriate, sufficient water can be diverted into channels allowing fish to bypass hydropower barriers.

Appendix 1 - Terms of Reference

Functions of the Committee – derived from Standing Orders [DSO 95; SSO 71]

- (1) The Select Committee shall consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to —
 - (a) legislation, policy, governance, expenditure and administration of—
 - (i) a Government Department, and
 - (ii) State bodies within the responsibility of such Department, and
 - (b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.
- (2) The Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—
 - (a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
 - (b) shall be referred to the Committee by order of the Dáil.
- (3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—
 - (a) for the accountability of the relevant Minister or Minister of State, and
 - (b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.
- (4) The Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—
 - (a) consents to such consideration, or
 - (b) has reported on such accounts or reports.
- (5) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

- (a) the Committee Stage of a Bill,
- (b) Estimates for Public Services, or
- (c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.
- (6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.
- (7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.
- (8) Where the Select Committee proposes to consider—
 - (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,
 - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
 - (c) non-legislative documents published by any EU institution in relation to EU policy matters, or
 - (d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings,

the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

- (i) members of the European Parliament elected from constituencies in Ireland,
- (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (iii) at the invitation of the Committee, other members of the European Parliament.
- (9) The Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—
 - (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
 - (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions

of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 94; SSO 70]

- (1) It shall be an instruction to each Select Committee that—
 - (a) it may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;
 - (b) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil;
 - (c) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Order 125(1)1; and
 - (d) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - (i) a member of the Government or a Minister of State, or
 - (ii) the principal office-holder of a State body within the responsibility of a Government Department or
 - (iii) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(2) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

Appendix 2 – ESB SUBMISSION



OIREACHTAS JOINT COMMITTEE ON ENVIRONMENT AND CLIMATE ACTION

ESB SUBMISSION 12th MARCH, 2024

ESB welcomes the opportunity to make a submission to the Oireachtas Joint Committee on Environment and Climate Action regarding the ESB Sustainable River Strategy.

Context

ESB operate hydroelectric generating stations on five rivers, namely the

- 1. Clady/Crolly,
- 2. Erne,
- 3. Liffey,
- 4. Lee, and
- 5. Shannon.

These generating stations can generate 220MW of renewable electricity, producing enough electricity to power 180,000 homes with zero carbon electricity.

By their nature, dams at hydroelectric generating stations are barriers to fish migration. ESB works to mitigate these impacts by supporting fish migration through the following activities:

- 1. The provision of fish passes and fisheries infrastructure at hydro generation assets, which allow fish to migrate around, or through the dam.
- 2. The conservation of eels by catching and then safely transporting adult and juvenile eels around the dams; the **Trap and Transport programme** forms part of the National Eel Management Plan. In 2021 the International Council for the Exploration of the Sea (ICES) noted that Ireland was the first country to begin an annual Trap and Transport Programme. The ICES also noted that **Ireland accounted for 49.4% of all eels released in Europe in 2020 under this initiative**, as well as for all years since records began in 2001. (See Report of Joint EIFAAC/ICES/GFCM Working Group on Eels (WGEEL), Volume 3, Issue 85, 2021).
- 3. The implementation of specific smolt protocols for hydro generating station operation during the salmon smolt migration period.

In addition to the items listed above, ESB fisheries conservation activities include:

- 1. Operating three salmon hatcheries
- 2. Completing river enhancement projects, and
- 3. Managing the fisheries through partnerships

The ESB Fisheries Conservation Report is published annually and can be found on the ESB website at ESB Fishery Information.



ESB Sustainable River Strategy

ESB's Corporate Strategy, *Driven to Make a Difference: Net Zero by 2040* identifies environmental and social responsibility as a foundational capability. As a result, in 2023 ESB undertook a review of all activities on the rivers on which it has operations and developed a new strategy - ESB Sustainable River Strategy. **This consists of a suite of high-level principles that are effectively a road map for ESB as it delivers a new strategy for the rivers on which we operate.**

Integral to this process will be a number of key objectives on which ESB will consult prior to their finalisation and subsequent implementation. Stakeholders to be consulted with on these objectives will include:

- Inland Fisheries Ireland (IFI)
- Marine Institute
- Department of Environment, Climate and Communications in Ireland
- Department of Environment, Agriculture and Rural Affairs in Northern Ireland
- Shannon Fisheries Partnership Group and other angling representative groups as appropriate
- Local Elected Representatives including local councillors adjacent to our areas of operation

The new Sustainable River Strategy builds on the fisheries conservation work outlined above. It is an ambitious strategy which increases focus and activity on rivers where ESB operates hydroelectric schemes.

Foundation Principles

The ESB Sustainable River Strategy is founded on four key principles:-

- 1. **Stepping forward on social and environmental responsibility** While ESB has made a significant contribution in its' activities to date, the intent of the new strategy is to build on those activities and increase our focus on fisheries conservation.
- 2. Dam Safety The concrete and embankment dams on these rivers need to be monitored, inspected and maintained to ensure the dam safety risk is managed carefully and local communities protected appropriately. Dam safety is our primary consideration. This strategy is proposing new approaches in fisheries conservation etc, and in doing so, ensuring that the dam safety risk is not adversely affected.
- **3.** Water Management The reservoirs are used for long-standing community and societal purposes such as drinking water supply, recreation, and water for navigation. They also play a part in alleviating flooding during weather events; while they cannot prevent flooding from occurring, the storage in the reservoirs can help reduce flows in the river downstream. The effective management of water is a key principle for dam safety and in the operation of ESB's hydro schemes.
- **4. Legal And Statutory Obligations** ESB has statutory fisheries conservation obligations, and the new strategy goes beyond these obligations, setting out a broader



ambition for a Nature Positive Approach on rivers where we operate hydro generation.

ESB Sustainable River Strategy Goals

The ESB Sustainable River Strategy's high level strategic goals are:

- 1. Managing the balance between **fisheries conservation** and renewable generation based on scientific evidence
- 2. Implementing a **Nature Positive Approach** along 30% of ESB owned river channel or lakeside habitat by 2030
- 3. Committing to a measurable net gain of ESB's contribution to our **Communities** through sustainability initiatives

The development and implementation of actions under each of these high-level goals will be based on:

- The application of scientific and other technical expert advice
- The outcome of trials and feasibility studies, and
- Consultations with key stakeholders as mentioned earlier

Strategic Goal 1: To shift the balance between fisheries conservation and renewable generation based on scientific evidence

This relates to fish migration and barriers to fish migration and is particularly relevant to the Committee's request. A number of initiatives already underway include:

- Trialling of a lengthened season of the Eel Trap and Transport programme, to establish if this would further improve eel conservation.
- Trialling of revised operating protocols for one of our hydro schemes. This trial will facilitate a study of impact in changes in hydro station operating regime on fish conservation.
- Studying potential improvements to fisheries infrastructure:
 - Study fish migration and environmental impact on the Erne & Clady Rivers, to determine feasibility of upgrading existing passes or developing a new fish pass.
 - O Active participation in, and support for the Lower Shannon Fish Passage Improvement Group co-ordinated by the Dept. of Housing, Local Government and Heritage. This group is in the process of appointing external technical experts to progress the roadmap already identified. A series of feasibility studies are planned and ESB has committed to share funding of these studies.

Based on the outcome of trials, studies and the application of scientific advice, ESB will progress additional projects and initiatives to implement the Sustainable River Strategy. These will progress in consultation with key stakeholders.



Strategic Goal 2: Implement a Nature Positive Approach along 30% of ESB owned river channel or lakeside habitat by 2030.

Initiatives already underway include the development of a detailed management plan for The Gearagh, a Special Protection Area (SPA) on the river Lee.

This plan has particular focus on supporting the biodiversity of this unique area. Consultations are currently with key stakeholders. On completion, the plan will be shared more widely.

Strategic Goal 3: Commit to a measurable net gain of ESB's Contribution to our Communities through Sustainability Initiatives

Initiatives underway for this goal include:

- Supporting community access to ESB riverside and lakeside holdings where appropriate.
- Consulting with community groups, local authorities, Waterways Ireland and others, in a number of locations around the country to develop walkways and greenways. For example, one project that is already underway is the provision of a walkway at Golden Falls at Ballymore Eustace in County Kildare.

In the context of our ongoing consultations, both ESB and IFI have been meeting at a senior level over the last 18 months with a view to exploring further business opportunities to work in partnership.

ESB's fisheries conservation efforts are greatly enhanced through the support of a wide range of local and national stakeholders. ESB recognises and appreciates the contributions that these stakeholders make on a regular basis and looks forward to continuing these engagements going forward.

Conclusion

The ESB Sustainable River Strategy is an ambitious strategy which aligns with the Corporate Strategy of Net Zero by 2040. It sets out the high-level strategic goals under which, detailed action plans will be developed and implemented in consultation with key stakeholders. A programme of work for 2024 has been developed and implementation has already commenced in a number of areas. Detailed action plans under each of the strategic goals that are listed in this strategy will evolve over time in consultation with stakeholders. These will be informed by scientific evidence, and learnings arising from the implementation of new fisheries conservation measures.



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