

## **SALMON FISHERIES BYELAWS: RIVERS DART AND TEIGN**

Date: 8 February 2005

1. Further to my submission of 3 February, Mr Bradshaw has asked what are the arguments for not taking radical action immediately in respect of the netsmen.
2. The basic problem in this area is that legislation on salmon and freshwater fisheries (essentially section 26 of the Salmon and Freshwater Fisheries Act 1975 attached at Annex) is specifically designed to protect poor, honest netsmen from the actions of wicked, arbitrary government, which might otherwise deprive them of their livelihoods for the possible benefit of richer chaps with rods or even richer chaps who own the river-banks and sell fishing permits to the chaps with the rods.
3. The Agency may only take action if it first advertises it in advance and allows objections to be made. The Agency advertised zero NLOs for both rivers but objections were made and not withdrawn by netsmen meeting the criteria set out in Subsection (3). Confirmation of the NLOs could not therefore happen unless the Minister caused a local inquiry to be held. Such an inquiry would be costly for the Agency and its results are uncertain (the Inspector might argue that the introduction of the zero NLO could be justified only if compensation were awarded to the netsmen). Moreover, the zero NLOs would not, of themselves, reduce exploitation in the short term. The Agency therefore took the decision not to proceed with the NLOs, as is their right. Were the Minister to ask that they be reintroduced, they would have to be re-advertised and it is virtually certain that the same objections would be raised, thus leading to an inquiry. It is certain that procedures could not be completed before the start of the netting season in June, so that the NLOs could not take effect until next year anyway.
4. The other possible route for action in respect of the nets is through byelaws. It is a moot point how far one can go using byelaws because their use tends to be seen as a means to get round the protection afforded the netsmen by S26. If the Minister wanted the Agency to go farther in this direction than they have proposed, a new byelaw package would have to be advertised and a consultation exercise run on it. That is undoubtedly what the Agency have in mind for later in the year, but they see advantage in getting the package as advertised (save the NLOs) confirmed for this year. If he wishes, the Minister can refuse to confirm the package of byelaws as advertised, arguing that more robust action is necessary. But that would delay any action for this season, pending the construction of a new byelaw package and the various rounds of consultation necessary before it can be brought into effect. If, in confirming the package, we make it clear that this is very much an interim measure, we might take some of the sting out of the Rods' opposition to it.