



## THE MARINE CONSERVATION BOARD

**Administrative Office - Department of Environment**  
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Cayman Islands Spearfishers Association  
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Grand Cayman, KY1-1104  
Cayman Islands

Dear Sirs and Madam,

Thank you for your April 20<sup>th</sup> correspondence announcing the formation, constitution, and mission statement of the 'Cayman Islands Spearfishers Association'.

The Board, both in the past and recently, has deliberated extensively over the problematic issue of spear guns, and now offer the following in responding **fully** with our position on the matter.

As you may know, the Marine Conservation Law, Regulations, and Directives governing the licensing of spear guns came into effect in February 1986, due to public concern regarding the potential adverse effects spearing would have on our breeding population of reef fish, such effects having been witnessed in other jurisdictions.

Licensing of eligible persons commenced, and, since then, some amendments have been made to the spear gun legislation in order to strengthen the effectiveness of the law in achieving its conservation goal. This resulted in the current regulations of the 2003 Revision of the law.

As you well know, one of the original license conditions of the Directives which purposely still exists was the prohibition on the importation of spear guns and spear gun parts, these subsequently being included under the Prohibited Items section of the Customs Law. The rationale for this restriction on import was that with the gradual attrition of spear guns, the activity would eventually be phased out, thereby sparing our fish population the deleterious, and often drastic, effects of spear fishing experienced elsewhere.

In recent years however, enforcement personnel increasingly reported encountering in the field persons having what appeared to them to be new spear guns, which obviously would have to have been recently acquired and illegally imported into the country. We suspected, from these reports, as well as the ongoing submission of applications for spear gun user's licenses, that the smuggling in of new spear guns was negating any

intended effect of the phase-out strategy. Having also recognized there were other inadequacies in the law conducive to over-fishing abuse, and certain issues of unenforceability, it was then decided to suspend the issuing of any new licenses until corrective amendments could be made, and a new identification licensing system could be implemented.

Meanwhile, previously licensed persons were allowed to continue to spear fish under a provisional license having the same conditions of that previously issued. The new amendments changed the previous 'Spear Gun User's' license to a 'Spear Gun Owner's' license, and additional conditions were included on an updated provisional license to those persons in the interim while the new ID licensing system was being acquired.

The new system (which came on line late last year) requires that, in addition to the licensee's ID photograph, photographic record be taken of his or her spear gun. As licensing commenced, it was realized that an inordinate proportion of guns being brought in for licensing were obviously new. In fact, of the 193 spear guns photographed to date, 40% have been identified as being brand-new, or almost so. On the basis of this information, the Board decided to temporarily halt further licensing of applicants, and issued a reminder notice to the public that the importation of spear guns and spear gun parts was illegal. This notice was released on 20<sup>th</sup> March. Ten days later (March 30<sup>th</sup>) an announcement was made in the local press to all spear fishermen of the first AGM of the soon to be Cayman Islands Spearfishers Association.

Finally, the chronology ended with the by-hand delivery of the above mentioned documents of the newly formed association on the 20<sup>th</sup> April (during the meeting of the MCB), with press releases on the 20<sup>th</sup> and 25<sup>th</sup> April.

It is the opinion of the Marine Conservation Board that the sequence of events described in the preceding two paragraphs is by no means coincidental.

Clearly, the exposure of rampant smuggling of spear guns into the country caused a knee-jerk reaction in galvanizing the spear fishermen into forming an association through which they hope to perpetuate an activity which this Board (along with many other authorities in other jurisdictions) deems detrimental to the long term future health of our fisheries.

Your letter of many assertions (we will get to those in due course), and eager willingness to work with the Board in several generous ways (which we believe to be genuine, but convenient at this late juncture) implies that the Board, by some reformist decision, should now ignore this breach of law, and in fact reverse the law to retroactively accommodate such breach by way of pardon. Indeed, as written in its constitution, the primary objective of the CISA is to achieve this very thing.

We take umbrage to any such implication as, if entertained, not only would it be counter to our goal, it would place the MCB in the totally untenable position of having trivialized the laws of this country. This membership can assure you that no such situation will be cause for our integrity in carrying out the function of the Board to be

questioned, and will publicly defend our decision to follow the letter of the law in order to achieve conservation goals for future generations of Caymanians.

It is noteworthy here that not only was there an infraction of the Marine Conservation Law, but also the Customs Law, of which there are many sections pertaining to the smuggling, sale, association with, and handling of contraband, and for which, in addition to mandatory penalty and forfeiture, an offender is liable on summary conviction to a fine of six thousand dollars and to imprisonment for five years.

It should be noted that the spear gun regulations were born of foresightful public concern twenty years ago, at a time when Cayman recognized the pressing need for increased conservation of its limited fisheries. Indeed it is telling that at no time in the last twenty years was the importation ban on spear guns publicly or formally questioned by anyone in any forum.

Instead, it is now obvious that persons have been choosing to ignore the law of the land by consciously smuggling these prohibited items in, simply because they could get away with it due to the insufficient manpower of H.M. Customs to screen every vessel or container used for transshipment of goods, and because there was no accountability prior to the recently implemented licensing scheme.

Given the above we stand by the law as it is, and will be seeking further consultation with government.

Now, we wish to address various assertions you make in your correspondence which, if left un-remedied, may mislead persons not savvy to the reality of the spear fishing issue.

You are right in your assessment that *'spearfishing allows the fisher to apply discretion- thus avoiding taking juveniles or undesired species.'* Therein lies spearfishing's own 'brand' of problem.

While the degree of selectivity in avoiding by-catch is one positive feature it has over other fishing methods, and predisposes one to think it is an environmentally friendly form of fishing, it is erroneous to believe that the sport does not have deleterious effects, especially on resident populations of reef dwelling fish, whose attributes make their populations far more vulnerable to over-harvesting. They are non-migratory, large, territorial, highly edible and have slow reproductive strategies. Those that have restricted ranges are especially vulnerable, and, in some species, large individuals are less timid and are easier to spear.

Indeed, in maximizing gain per unit of effort, it has become the inherent trademark of the sport to take the biggest fish available. As a result, the largest individuals of target species (eg. snapper, grouper, parrotfish) are sought.

The merits of preserving large individuals for the maintenance of stock cannot be overstated. They yield not only orders of magnitude more eggs per gram of body weight, but better quality eggs with higher survivability, they spawn over longer periods of time,

are more experienced and more successful in spawning, are often the leaders in spawning migrations, have different and important ecological effects, and have greater overall genetic fitness in perpetuating the species. As such, they are essentially **THE** source of future generations of fish, and their removal has led to depleted stocks due to recruitment over-fishing (essentially causing a lack of eggs for replenishment) which is probably the most biologically and ecologically damning phenomenon that can befall the population of any fishery.

Large fish are disappearing rapidly in the Cayman Islands, and there are no upstream source available to replenish our waters. A recent survey of the various fish habitats in ten locations around Grand Cayman by the Department of Environment has shown that a staggering 98%, 84%, and 93% of groupers, snappers, and parrot-fish respectively, are below the size of 12 inches, and 94%, 46%, and 77% respectively, are below the size of 8 inches!

In countries such as Florida, Spain, France, Italy, Jamaica and Bahamas (to mention a few) spear fishermen have decimated populations of edible reef fish. The same has even happened in Australia, whose underwater shelf area is proportionately vast to it's human population.

Is our current laws enough to prevent this? We contend that it is a simple matter of scale, and that the current level of spear fishing on our very limited and narrow insular shelf by a few hundred persons is still a significant factor in the continuing the decline of our reef fish. Our marine parks are simply not large enough or productive enough to compensate for the rate of removal of fish from our reefs.

Evidence has shown that spear fishing in reef environments is a far more effective and time efficient method of harvesting target fish than is angling, and, overall, more-so than traps as well. In most situations the rapid advent of the sport has coincided with a correspondingly rapid decrease (and often local decimation) of target species.

Its prolonged effects have often been disastrous, and in some cases, even after protective legislation has been passed, some species have not recovered after many years.

It has now become clear that the ability of reefs to recruit stock from deeper, less accessible habitats has been over estimated by both spear fishers as well as fisheries scientists. We have all over-estimated the reproductive capabilities of reef fish, and under-estimated fishing pressures.

There is consensus now that for too long, many countries have turned a blind eye to the major changes that spear fishing was creating in their coastal ecosystems, and that this cavalier attitude has led to local extinctions and ecosystem decline.

This Board is trying to avoid similar mistakes.

In theory, spear fishing can only be considered sustainable in a scenario where it is conducted infrequently, by few persons, and with a large healthy population of fish. As this scenario no longer exists on any reef, it is essentially an unsustainable activity.

The majority of Caymanians enjoy and depend upon line fishing to catch fish.

Spear fishing is a case where disproportionate detrimental impact is inflicted on an important common resource by relatively few. Identified as such, it has subsequently been banned in numerous jurisdictions.

While the CISA letter is correct in stating that spear fishing is one of the oldest of fishing methods, it can hardly be considered to be a Caymanian tradition passed down from our forefathers. As a popular activity it is a post-world war two phenomenon, and even so, really only became a common practice in the Cayman Islands since the late 1970's. While speared catch is consumed, no one relies on spear fishing for a livelihood. It is by and large a modern recreational activity (as you term it, a 'sport'). As such, it cannot be categorised as a 'grand-fathered' right, but merely a privilege, which must now come to terms with the reality of its effects. Indeed, turtle fishing is by far more traditional to Caymanians, yet it too has had to be severely curtailed due to its obvious history of ill effects. On this issue, would it be it right to deny our children's generation a valuable resource in the name of any tradition, much less a sport?

Your letter also errs in equating the spear fishing legislation with that of firearms as they are completely different in cause and effect. Reasons for the stringent regulations of the firearms law are obvious and need no explanation. They have, however, resulted in extremely few individuals being given the privilege of open use of firearms to exploit a largely transient resource (migratory birds) by way of hunting. The majority of firearms licenses (and these too are few) are issued as restricted licenses for the purpose of sport shooting/target practice at the firing range. As such, unlike spear fishing, firearms inflict very little harm on our natural resources.

While you do not specify in your letter what issue of safety you purport to exist via 'outdated legislation' leaving the 'legal' spear fisherman in harms way, we assume you are referring to worn mechanisms of aging spear guns, and the possibility of injury by the accidental discharge of such. We would submit that the onus of safety lies entirely with the spear fisher in responsible use of the weapon. Responsible use entails being conscious of where the weapon is pointed at all times (essentially no different from using a firearm or indeed an automobile). It would appear that such due care and attention has been exercised, as to our knowledge there has been no report of any such accident to date. From what we have seen of the old guns making up the remaining 60% of spear guns brought in for licensing, they are still quite safely functional and many were repaired locally. If some part of the mechanism cannot be repaired locally, then it should be deemed irreparable by its owner, and its use discontinued with an appreciation of at least having had the privilege for an extended period of time.

Though not mentioned in your letter, there are other un-substantiated claims that various Board members have heard from spear fishermen regarding the law, which we nonetheless will address at this time for the sake of completeness and the economy of time.

One such claim is that reducing the catch limit of fish from six to three, forces the fisherman to target bigger fish. What it implies is that if allowed to catch six fish versus three, the fisher would opt to take six smaller fish instead of six bigger fish, or even three smaller fish and three bigger fish. Of course we know this is untrue.

As we all know, it is inherently human to exploit any law to the fullest extent it allows, especially those applying to free natural resources, such as fisheries. Innate greed and the part it plays in the 'tragedy-of-the-commons' are responsible in this case.

In maximizing gain per unit effort, the spearer will always shoot the biggest available fish anyway, whether it be six, three, or one. Depending on the rate and frequency of encounter, he will almost invariably opt to make one 30 ft. dive for a 30 lb. fish, rather than making three 30 ft. dives for three 10 lb. fish for the same reward. Of course six 30 ft. dives for six 5 lb. fish is even less appealing to the fisher. At any one opportunity, if surrounded by numerous fish, large or small, the spear fisher will pursue the largest. Thus the reduction in allowable catch limit from six fish to three in no real way encourages persons to spear big fish any more than they would have otherwise been.

In contrast, we have also heard the claim by some that they only prefer the smaller fish. Our contention is that this is so because the larger individuals are now scarce, having already been to a great extent removed from our reefs. Any claim of conscious choice of smaller fish due to the fishers preference in taste for a particular species, is an exception to the norm.

Whereas the law previously allowed six big fish to be taken, it now allows three big fish to be taken. We will not discuss the concept of designated slot sizes, except to say it will likely prove very difficult for the average spear fishermen to tactically abide by, and would inevitably require too much discretion in enforcement.

We are not saying that spearfishing is the primary evil among fishing activities allowed in the Cayman Islands (that designation must go to spawning aggregation fishing) however, it is probably the second most detrimental, having proven to have its own (and usually broader in terms of numbers of species it affects) adverse impacts to breeding populations of reef fish.

Though we may have slowed its rate of decline with constant efforts in implementing and enforcing marine conservation laws, there is no doubt that the health of our fisheries are still losing ground. At no other time have they been in more demand and threatened by over-exploitation, and at no other time, thanks to a reasonably good economy, have we been in such a position to afford their conservation for future generations. To continue to jeopardize this in the name of sport would be unconscionable.

In conclusion, the power of any law comes from compliance and enforcement, whether it be that of immigration, traffic, customs, or marine conservation. The current spear restrictions do not encourage the smuggling of spear guns anymore more than the narcotics law encourages drug use, or traffic law encourages speeding.

Since it has become startlingly clear that compliance for the spear gun regulations is sorely lacking, we are adamant that their enforcement not go the same way.

**We are hereby giving notice that enforcement procedures regarding illegally imported spear guns will be stepped up, both in the field, as well as through the relevant agencies involved.**

Had the legislated ban on importation of spear guns not been so blatantly ignored, we would have by now been reaping the benefits to our fisheries for which the law was meant. This Board will not drop-the-ball in further compromising the current health of our fisheries for future generations to please a few. This sad devolution, if it occurs, will have to come from some other quarter.

We would therefore ask the upstanding community members of the CISA board for their assistance and co-operation in this effort to conserve our faltering reef fish population by encouraging fellow members to comply with the law. It becomes us all to do so, lest not only will we suffer the consequences, but future generations will as well.

We should think of the phasing out of spear guns not as an insult, but a small sacrifice of leisure in investment to our children's future.

Should you have any further questions or comments, please do not hesitate to contact us.

Signed,

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for Don Foster, Chairman



Cc Hon. Charles Clifford, Minister of Tourism, Environment, Investment & Commerce  
Hon. Kurt Tibbetts, Leader of Government Business  
Mr. Carlon Powery, Collector of Customs, H.M. Customs  
Mrs. Gina Ebanks Petrie, Director, Department of Environment  
Mr. Stuart Kernohan, Commissioner of Police, RCIP

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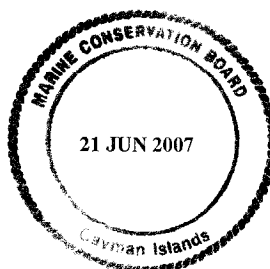
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