



Scotland's Stolen Sea

October 2014

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Scotland's national borders comprise one terrestrial border with England and several sea borders, one with England and several with other countries (the Isle of Man, Ireland, Faeroe, Norway, Denmark, Germany and the Netherlands). In 1999 the government of the United Kingdom made a flagrantly illegal change to the North Sea border between Scotland and England. This purported change was arbitrary as well as being unfavourable and insulting to Scotland.

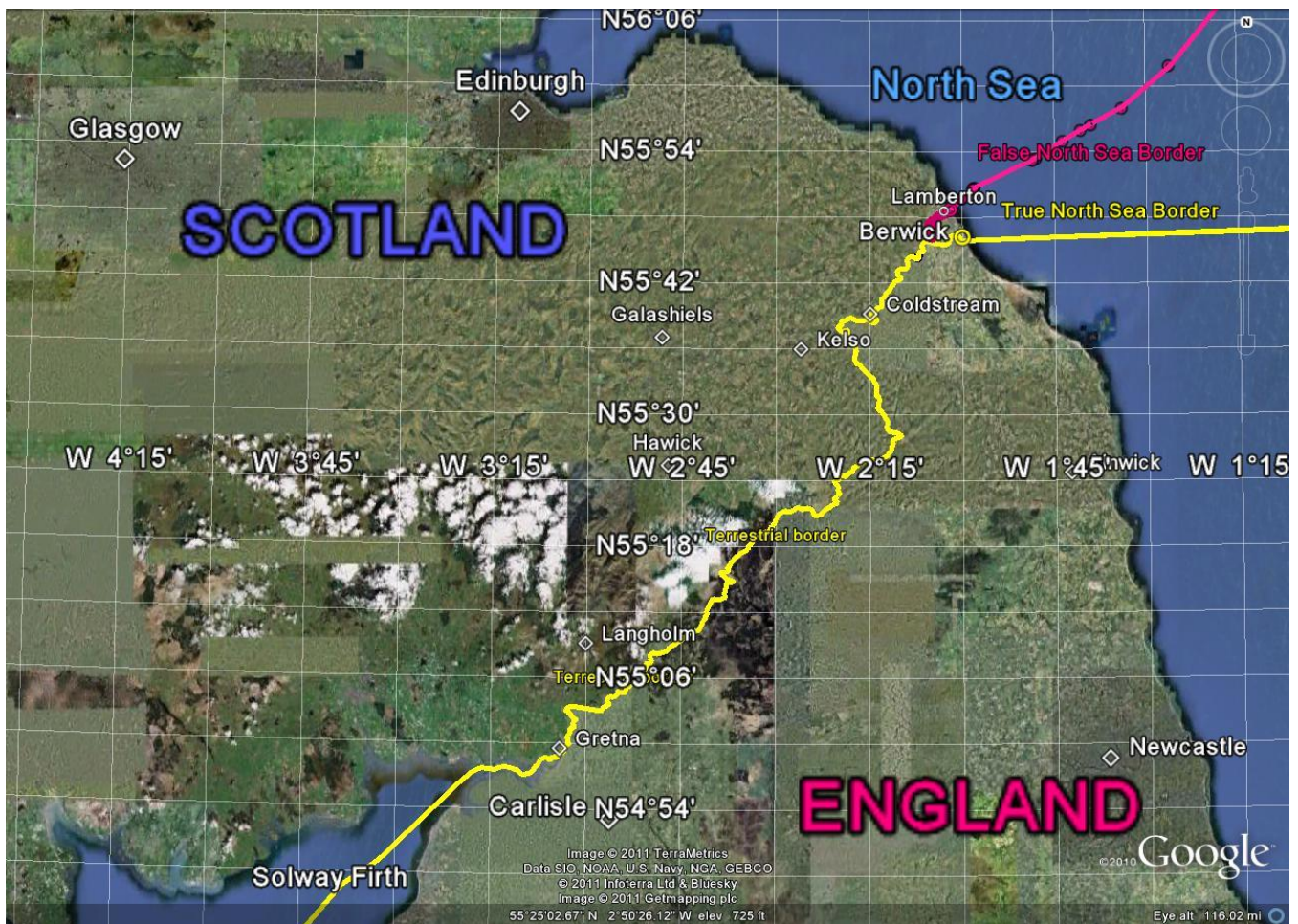
The purposes of this paper are:

- To provide the Scottish people with complete information on Scotland's true national North Sea border with England, including information on historic and more modern illegal attempts to change it.
- To expose in detail the UK Government's illegal 1999 manoeuvre to change the true Scotland-England North Sea border and thereby transfer 6,255 statute square miles (5,540 nautical square miles) of Scottish waters to English jurisdiction (see Figures 4 and 5).
- To expose the Scottish Government's dereliction of its duty to the people of Scotland by not having taken constant and unceasing official action against this patently illegal UK Government action.
- To expose the European Union's undemocratic, bureaucratic, imperialistic and often recklessly incompetent intrusions into Scotland's territorial waters.

This paper is an updated extraction from and extension of 'The National Borders of Scotland' originally published by the Scottish Democratic Alliance (SDA) in November 2009 and updated several times, the This paper adds significant relevant material which has recently come to light, and examines some of the ramifications of the European Union's Lisbon Treaty and alternatives to Scotland's remaining in the European Union.

Figure 1 sets the stage for the North Sea Scotland-England border. The area between the mouth of the River Tweed and the false North Sea border was arbitrarily stolen from Scotland many years ago. Scotland's constitutional North Sea border starts from the centre of the mouth of the River Tweed, the true border, and not from near Lamberton.

Figure 1. The Scotland-England Border



The border area is illustrated in Figure 2 and covered in detail in the 2013 and earlier editions of 'The National Borders of Scotland'. Details of the western ends of the true North Sea border and the false North Sea border are shown in Figure 3.

Figure 2. Area of Unlawful English Incursions into Scotland



Figure 3. The True North Sea Border at the Mouth of the River Tweed



Scotland's constitutional North Sea border starts from the centre of the mouth of the River Tweed, the true border, and not from near Lamberton. The International Law of the Sea states the following in Article 15, *Delimitation of the territorial sea between States with opposite or adjacent coast*.¹

*Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. **The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith*** [bolding added].

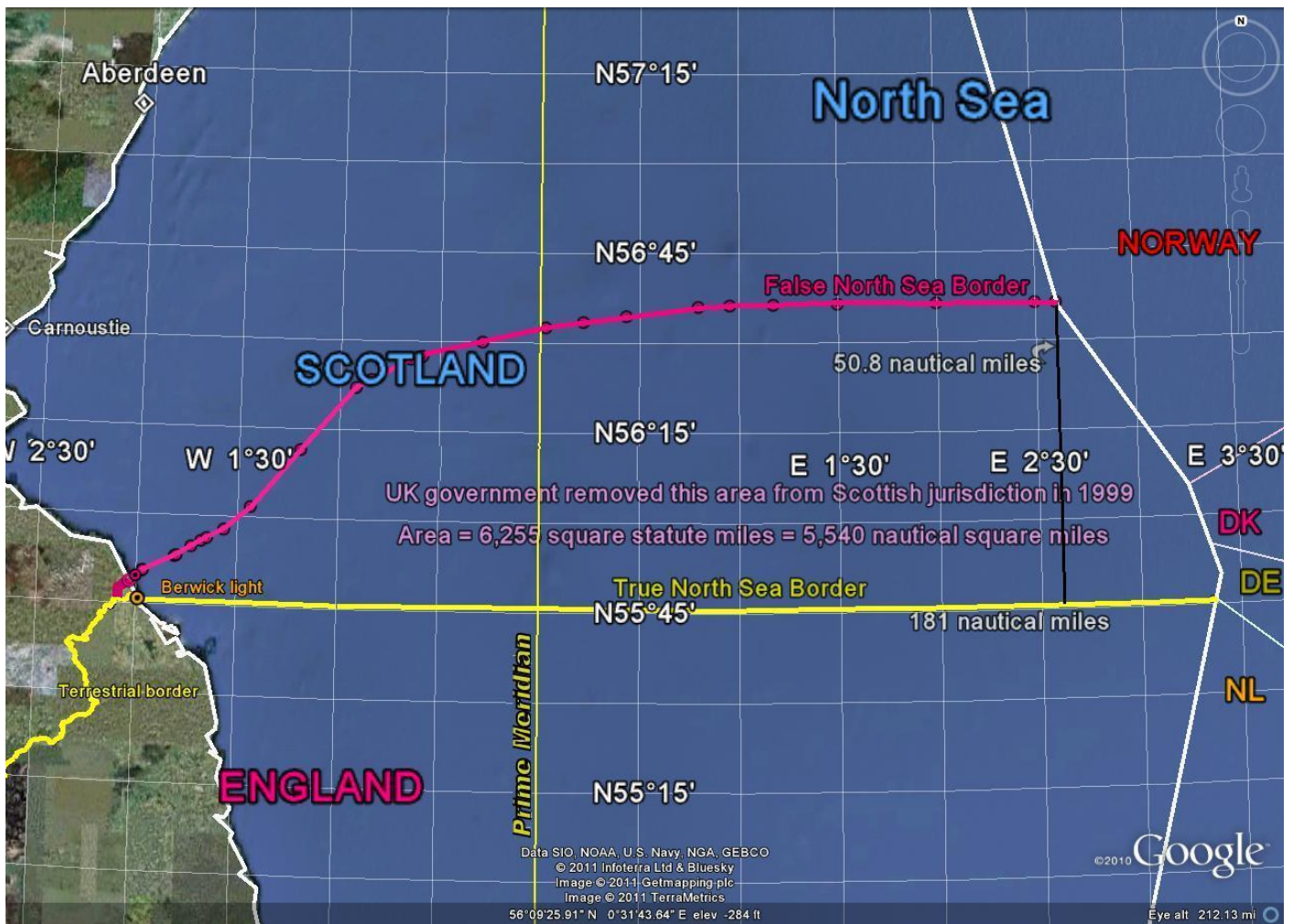
Scotland has “historic title” to the mouth of the River Tweed. Moreover, the sea border has been recognised by fishermen as the latitude of the border for hundreds of years – probably since the 14th century. These are obviously “special circumstances”. Thus the true North Sea border extends due east from the mouth of the River Tweed at latitude 55°45'53.28"N until it ends at the boundary with the Netherlands Exclusive Economic Zone.² See Figure 4 to see why the Scottish EEZ does not extend all the way to Denmark (abbreviated as DK).

In 1968 the UK government ignored the true border and set a false border at latitude 55°50'N, near Marshall Meadows about a mile south of Lamberton, by imposing the Continental Shelf (Jurisdiction) Order 1968². This Order declared the Scotland-England border, north of which would run Scottish legal jurisdiction in the North Sea, to be on a line running due east at 55°50'N. The coordinate is obviously erroneous, and was apparently used just because it is a round figure purportedly representing the latitude of the end of the coast near Lamberton at 55°48'42"N. This fundamental error of mistaking the administrative boundary at Lamberton for the national border is very common among UK legal drafters. In this case they simply used a slovenly approximation of the administrative boundary, which has no constitutional significance whatsoever – an error compounded by the drafters of the 1999 Order with their mendacious projection of the boundary line far to the north of the true border.

The 1968 Order was confirmed and archived by the 1968 UK submission to the United Nations on the law of the sea. Figure 4 depicts the true and false borders, including the false border of 1999 described in detail below the figure.

¹ http://www.un.org/Depts/los/convention_agreements/texts/unclos/part2.htm, particularly articles 5, 7 & 9.

Figure 4. True and False Borders: North Sea



Imposition of the Scottish Adjacent Waters Boundaries Order 1999

On 13 April 1999 the UK government promulgated Statutory Instrument 1999 No. 1126, purported to be Constitutional Law and entitled 'The Scottish Adjacent Waters Boundaries Order 1999'³ The document states:

Boundaries - internal waters and territorial sea

3. For the purposes of the Scotland Act 1998, the boundaries between waters which are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not, shall be... and then specifies the tables in Schedule 1 Part I and Schedule 2 Article 4 as defining the new North Sea boundary. These tables are shown in Figure 5.

³ Available at <http://www.opsi.gov.uk/si/si1999/19991126.htm>. There is a research note which outlines the background to this document at http://www.scottish.parliament.uk/business/research/pdf_res_notes/rn99-06.pdf. The following statement was made on 23 March 1999 in the UK Parliament by Henry McLeish, who at that time was UK Minister for Home Affairs and Devolution, Scottish Office: "The boundary set out in the draft order will not change the common law border". That statement was patently not true.

Figure 5. Boundaries Order 1999 – Coordinate Specifications

SEA BOUNDARY OFF THE EAST COAST OF GREAT BRITAIN

| | | | | | |
|----|--------------|--------------|----|--------------|--------------|
| 1 | 55° 55' 01"N | 01° 43' 32"W | 11 | 56° 30' 12"N | 00° 17' 09"W |
| 2 | 55° 56' 00"N | 01° 40' 35"W | 12 | 56° 32' 41"N | 00° 01' 51"E |
| 3 | 55° 56' 30"N | 01° 38' 54"W | 13 | 56° 33' 38"N | 00° 13' 13"E |
| 4 | 55° 58' 01"N | 01° 33' 49"W | 14 | 56° 34' 39"N | 00° 26' 10"E |
| 5 | 56° 01' 54"N | 01° 26' 02"W | 15 | 56° 36' 13"N | 00° 47' 53"E |
| 6 | 56° 11' 41"N | 01° 11' 20"W | 16 | 56° 36' 26"N | 00° 57' 24"E |
| 7 | 56° 22' 16"N | 00° 55' 04"W | 17 | 56° 36' 32"N | 01° 10' 34"E |
| 8 | 56° 23' 39"N | 00° 50' 28"W | 18 | 56° 36' 37"N | 01° 30' 00"E |
| 9 | 56° 27' 10"N | 00° 38' 41"W | 19 | 56° 36' 39"N | 02° 00' 00"E |
| 10 | 56° 27' 40"N | 00° 35' 11"W | 20 | 56° 36' 33"N | 02° 30' 00"E |

TERRITORIAL WATERS BOUNDARY OFF THE EAST COAST OF GREAT BRITAIN

| | | |
|---|--------------|--------------|
| 1 | 55° 48' 42"N | 02° 01' 54"W |
| 2 | 55° 49' 47"N | 01° 59' 58"W |
| 3 | 55° 50' 40"N | 01° 58' 09"W |
| 4 | 55° 50' 44"N | 01° 57' 55"W |
| 5 | 55° 53' 17"N | 01° 48' 28"W |
| 6 | 55° 53' 27"N | 01° 47' 54"W |
| 7 | 55° 55' 01"N | 01° 43' 32"W |

Statutory Instrument 1999 No. 1126 also states:

4. For the purposes of the Scotland Act 1998, the boundaries between waters which are to be treated as sea within British fishery limits adjacent to Scotland and those which are not, shall be...

...and then refers to the boundary specified above.

Very conveniently, nothing in that document limits its applicability to fisheries. That lack of limitation was not accidental. On 24 February 2009 The Times published 'Secret plan to deprive independent Scotland of North Sea oil fields'.⁴ It stated, in part:

Documents detailing secret government plans in the 1970s to prevent Scotland laying claim to North Sea oil have been seen by The Times. They show the extraordinary lengths to which civil servants were prepared to go to head off devolution, which was seen then as inevitably leading to independence.

⁴ <http://www.timesonline.co.uk/tol/news/uk/scotland/article5728477.ece>.

The proposals included suggesting to Labour ministers, for whom devolution was a manifesto commitment, that progress towards a referendum should be delayed, in the hope that enthusiasm north of the Border would wane.

Treasury officials also advised that the boundaries of Scotland's coastal waters should be redrawn and a new sector created to "neutralise" Scotland's claim to North Sea oil – a step that was taken.

The "step that was taken" was the Scottish Adjacent Waters Boundaries Order 1999, which illegally moved Scotland's North Sea border to the north, thereby transferring some 6,255 statute square miles (5,540 nautical square miles) of Scottish waters to English jurisdiction. Figure 6 shows the outer boundaries of Scotland's share of the UK's Exclusive Economic Zones (EEZs).

Besides being a clear violation of the Treaty and Acts of Union, this transfer has a direct deleterious effect on the finances of the Government of Scotland in that no taxes or licence fees derived from activities in the illegally transferred area are credited to Scotland in the periodic Government Expenditure and Revenue Scotland (GERS) reports.

Under the Freedom of Information Act and posted on the (post-Devolution) Scotland Office website⁵ the documents repeatedly state that construction of sea borders by using the "equidistance principle" is "the fairest and most transparent method". That may indeed be true provided the parties on both sides agree to the location of the base points. But there was no such agreement in this situation.

The Order very conveniently does not identify the base points, but it can be easily shown through use of 'Google Earth' that the baseline extends from St Abbs Head in the Borders to Bamburgh Head in Northumberland. All points on the border shown in the chart are equidistant from these base points.

It is ironic to note what the situation would be if the equidistance principle were applied at the true border. The baseline would have to be drawn between the outermost low water points on each side of the mouth of the River Tweed and the border projected from the midpoint of the baseline. Depending on the exact location of the low water marks, the border would be projected at a bearing of between 105 degrees (the direction of Hamburg) and 130 degrees (the direction of Amsterdam). In either case the Scottish North Sea area would be increased, not decreased.

Figure 6 shows the true Scottish North Sea border in relation to the Exclusive Economic Zones of other nations in the central and northern sections of the North Sea.

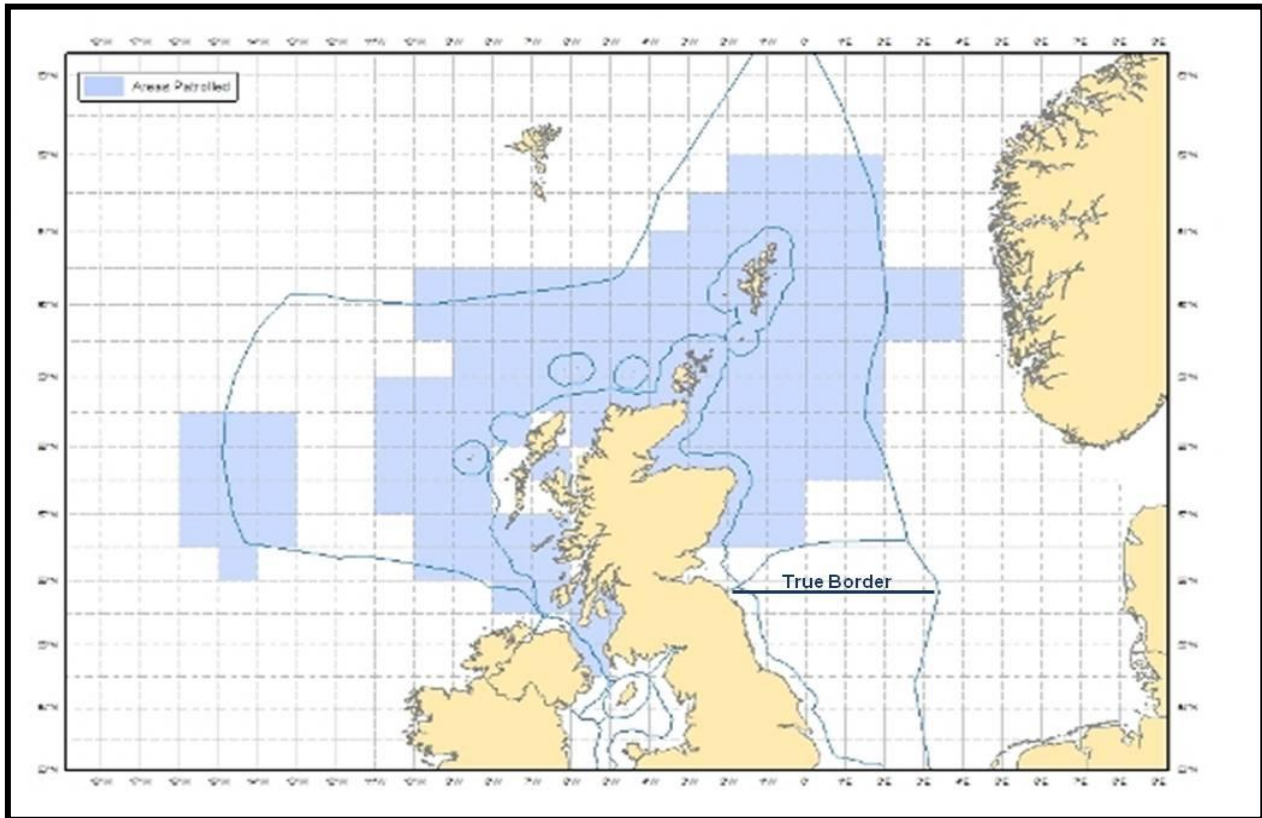
⁵ http://www.un.org/Depts/los/convention_agreements/texts/unclos/part2.htm, particularly articles 5, 7 & 9.

Figure 6. Sea, territorial waters, and EEZ boundaries of Scotland

The shaded sea area is the area patrolled by air by the Scottish Fisheries Protection Agency

Source: Scottish Fisheries Protection Agency.

True Border added by the SDA.



Boundaries Order 1999 was quietly rushed through the UK Parliament without regard to serious reservations raised by MPs. For example, Mr. Archy Kirkwood, MP for Roxburgh and Berwickshire, stated the following on 20 July 1999:

I beg to move that leave be given to bring in a Bill to require the Government to consult interested parties on whether to designate the coastal waters off Berwickshire as Scottish internal waters and to report to Parliament; and for connected purposes.

I seek leave to introduce a Bill whose purpose is to reopen the consultation process undertaken prior to the implementation of the Scottish Adjacent Waters Boundary Order earlier this year. I am particularly interested in the section of the order which affected 6,000 square miles of what was previously understood to be Scottish waters off the coast of Berwickshire. By virtue of the order, the area--known locally as the Berwickshire bank--now comes under the legal jurisdiction of England.

The Bill, if enacted later this Session, would require the Secretary of State for Scotland to reopen the formal process of consultation with fishing and other interested parties, and report back to Parliament. It may be unusual to introduce a parliamentary Bill for this purpose, but I believe that that is the only option open to Ministers--I note with satisfaction that the Under-Secretary of State for Scotland [Henry McLeish] is in his place--if local people in Berwickshire, and the Scottish Fishermen's Federation, are to have a meaningful chance to have their views considered and heard properly.

The Scottish Adjacent Waters Boundary Order 1999 was introduced to create a Scottish zone within British fishery limits. Scots law for sea fisheries applies within the zone created by the order. The order was an integral part, and inevitable consequence, of the overall political settlement enshrined in the Scotland Act 1998. It sets out the boundaries by listing the necessary Ordnance Survey co-ordinates in schedules attached to the order. It was debated in Committee on Tuesday 23 March 1999.

...

I further believe that the Standing Committee was not in full possession of all the principles and facts used internationally in deciding boundary questions between competing jurisdictions. Moreover, because of a lack of adequate notification, the Committee could not possibly have known of the strength of local feeling against the proposals. ... The Eyemouth and District Fishermen's Association and the Scottish Fishermen's Federation are very angry that the order was made without any of the usual consultations that are held between the Scottish Office and fishermen's organisations. When, for example, the Scottish Office undertook a review of controls of inshore fishing in Scotland, numerous organisations were personally contacted. The Government maintained, however, that the arrangements in the order involved nothing very significant, and that that had been pointed out by the former Scottish Office Minister, the hon. Member for Central Fife (Mr. McLeish), who, in Standing Committee, said:

"I fear that hon. Members are reading a bit too much complexity into the matter and suggesting that there is something either sinister or cynical about the measure." – Official Report, Third Standing Committee on Delegated Legislation, 23 March 1999; c. 14.]

Additionally, the Secretary of State for Scotland, in his letter to the Scottish Fishermen's Federation, dated 13 July [1999], said "decisions on the location of these boundaries "are matters solely for the UK Government". He went on to say that "the location of the boundary line has no substantive impact on the rights of Scottish fishermen to operate throughout UK waters."

Fishermen's organisations, and the fishermen who fish off the Berwickshire bank, do not agree with those propositions.

* * * * *

My hon. Friend the Member for West Aberdeenshire and Kincardine (Sir R. Smith), who was a Committee member when it considered the order, said that he was unaware that there had been no consultation with the Scottish fishing industry. He has subsequently asked the Government to reconsider the order and review the east coast boundary.

In the Standing Committee, my right hon. Friend the Member for Berwick-upon-Tweed (Mr. Beith) was not alone in expressing concern about the implications of what the Committee was being asked to decide. He said: "I retain a certain nervousness. I want to be sure that the principles that he"-- the Minister [Henry McLeish] -- "describes have been applied correctly and that, if they prove to have been in error, it is recognised that we shall have to return to the issue, if necessary with a modified order." --[Official Report, Third Standing Committee on Delegated Legislation, 23 March 1999; c. 11.]

Therefore, in common with other hon. Members in the Standing Committee, my right hon. Friend the Member for Berwick-upon-Tweed was totally unaware that the Government had failed to consult properly any of the fishermen's organisations.

Secondly, there are also important questions of international law. The Secretary of State for Scotland has argued that median lines are the commonly accepted approach, used internationally, to determining boundaries. On further investigation, however, and with the help of the Library, I have discovered that the main court in adjudicating disputes on maritime boundaries--the International Court of Justice--has never accepted that equidistance should be an absolute rule. Indeed, in the recent dispute on which it adjudicated--between Denmark, Holland and Germany--it was established that the overriding principle should be equitable settlement, rather than strict geometric equidistance.

* * * * *

Significantly, equitable settlement allows for resource and historic use considerations to be taken into account. Therefore, if a truly equitable settlement is to be reached in this case, a proper statutory period of consultation must now occur.

* * * * *

The order creates the absurd situation of there being two quite distinct jurisdiction boundaries in the sea area east of Scotland and England, off the coast of my constituency. Consequently, fishing vessels operating between those lines, if fishing, would be in England, whereas they would be in Scotland if engaged in non-fishing activities. That is exactly the type of nonsensical situation that Standing Committee members, when considering the order, wished to be assured would be avoided.

Berwickshire fishermen certainly believe that the boundary has always--for at least the past century--been at Marshall meadows. Conventionally, the sea boundary went due east from that point, and, 30 years ago, that was confirmed by the definition of the oil fields' location.

The purpose of the Bill, therefore, is to try to reflect the view of local people and of fishermen's organisations that the issue is serious and that it will not go away. If it is not addressed now, it could produce difficult situations in the future. If it is not dealt with in a constructive and conciliatory manner, the sense of betrayal that local people feel will grow.

Fishermen in Scotland are looking to the Secretary of State to engage in meaningful, fresh consultation. This ten-minute Bill would allow for fishermen's demands to be considered and addressed, and I commend it to the House.⁶

Apparently nothing further was done about Mr. Kirkwood's concerns.

What goes into Government Expenditures and Revenues Scotland (GERS) reports is important. Until the SNP succeeded to the Scottish Government in 2007, the UK government prepared these reports. Strangely, all of them showed Scotland in deficit. This aroused the suspicions of respected forensic accountant Niall Aslen, who decided to analyse them. Mr. Aslen's analysis exposed the UK government's egregious misallocation – to Scotland's serious disadvantage – of revenues (not just oil revenues) and expenditures. If a private firm had cooked its books half as outrageously as the UK government did in its GERS reports, its directors would be in jail.⁷

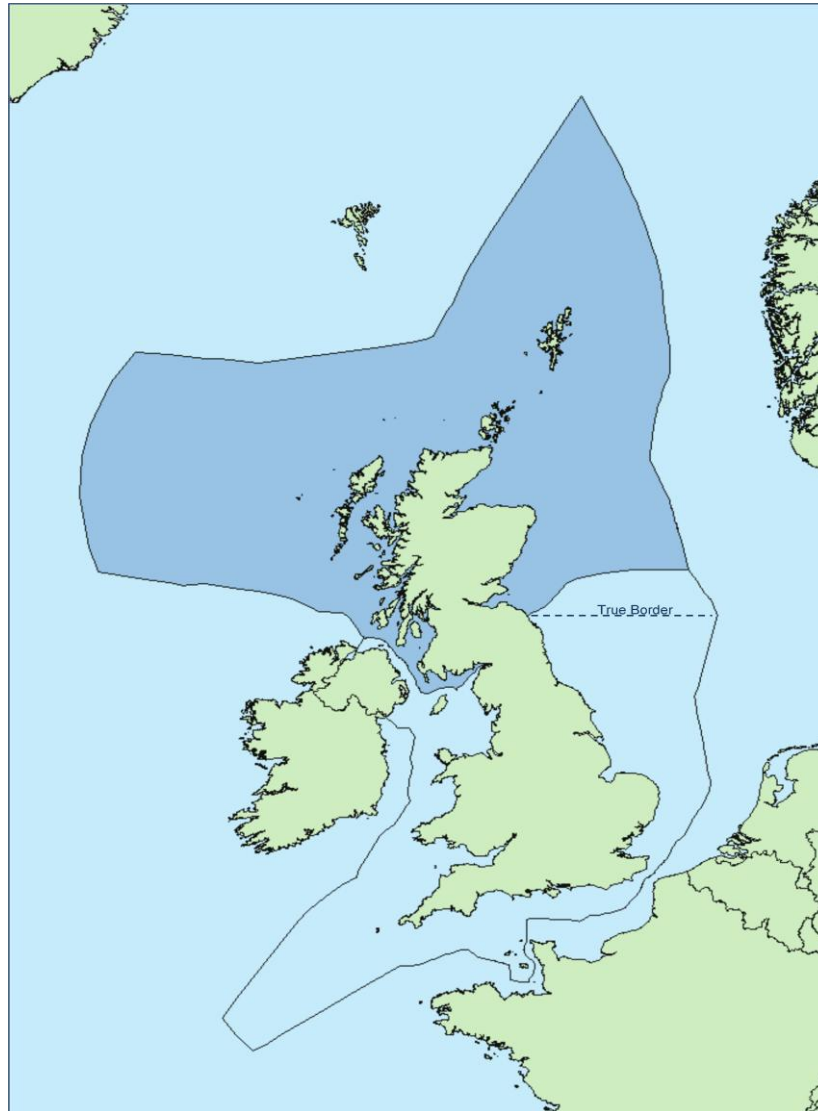
Figure 7 shows, in dark blue, the sea area from which tax and licence revenues from oil and gas production are credited to Scotland. Notice that the stolen sea area is excluded. There are at least twelve producing oil and gas fields in the stolen North Sea area. These are listed in Figure 8 and shown on the map in Figure 9.

Each of these oil or gas fields sends taxes and licence fees to the UK Treasury. Not one penny of this money is credited to Scotland, thus the GERS report results are understated – to the disadvantage of Scotland, as customary. Of course HM Treasury does not publish information in sufficient detail to permit calculation of the understatement. Even a request under the Freedom of Information Act would likely be denied on the grounds that such information is commercially confidential.

⁶ The bolding in this excerpt was added by the authors of this paper. The complete testimony is available at <http://www.publications.parliament.uk/pa/cm199899/cmhansrd/vo990720/debtext/90720-06.htm>

⁷ Available as downloadable attachments from the bottom of the page at <http://www.electricscotland.com/independence/TheGreatDeception.pdf>
<http://www.electricscotland.com/independence/TheGreatObfuscation.pdf>

Figure 7. Source of sea revenues currently allocated to Scotland



Source: Scottish Government Marine Directorate. True Border overlay added by the SDA.

On 23 March 2011 the UK government raised a supplementary tax on production of oil and gas to 32% from 20% – a 60% increase. Some cutbacks of new oil and gas have already been announced and others are under consideration. On 7 September 2012 the UK government announced a measure to reduce the tax amount for older North Sea oil and gas installations which they designate as ‘brownfields’. In any case Scotland derives no revenue from any oil or gas produced in the stolen sea area. Scotland will certainly be adversely affected if the oil and gas producers cut back on their investments anywhere in the Scottish seas.⁸

Figure 8 summarises the producing oil and gas fields in the stolen North Sea area.

⁸ BBC News Scotland Business, 7 September 2012.

Figure 8.

Producing oil and gas fields in the stolen North Sea area

| Name | Latitude | Longitude | Producing since |
|--------|----------|-----------|-----------------|
| | deg-min | deg-min | mo-yr |
| Fulmar | 56-29N | 2-13E | Feb-82 |
| Auk | 56-24N | 2-05E | Dec-75 |
| Clyde | 56-27N | 2-17E | Mar-87 |
| Janice | 56-24 N | 2-10E | Feb-99 |
| Angus | 56-03N | 3-08 E | Dec-91 |
| Fife | 56-00N | 3-12E | Aug-95 |
| Leven | 56-28N | 2-14E | Sep-92 |
| Fergus | 55-58N | 3-15E | Sep-96 |
| Medwin | 56-26N | 2-22E | Mar-94 |
| Orion | 56-25N | 2-33E | Sep-99 |
| Judy | 56-43N | 2-18E | Oct-95 |
| Curlew | 56-43n | 1-16E | Nov-97 |

Source: <http://www.acorn-ps.com/web/page/oilgas/nsfields/nnsmap.htm>

The ‘Catcher’ discovery

The illegal border created by Order 1999 became even more important in view of the discovery in 2010 of oil in the central North Sea area. Although the ‘Catcher’ discovery site (56°46.934’N–0°45.824’E) lies north of the stolen sea area, initial tests show that the ‘Catcher’ field is part of a rich oil formation holding approximately 155m barrels of recoverable oil.⁹ The ‘Catcher’ discovery site, shown in Figure 10, is only 11.0 mi (9.6 nmi) north of the false border. That is close enough to increase the probability that more oil will be found south of the false border, i.e. in Scotland.

Note: Figures 9 and 10 have not been updated from the 2011 edition of ‘Scotland’s National Borders’ because they still illustrate the points made in the text that precedes them. They have, however, been slightly reduced in size to fit on a single page. For all the oil and gas facilities as of June 2013 see Figure 12 on page 21.

⁹ <http://business.scotsman.com/business/Massive-oil-field-discovery-in.6386682.jp>

Figure 9. Producing Oil Fields in the stolen sea area

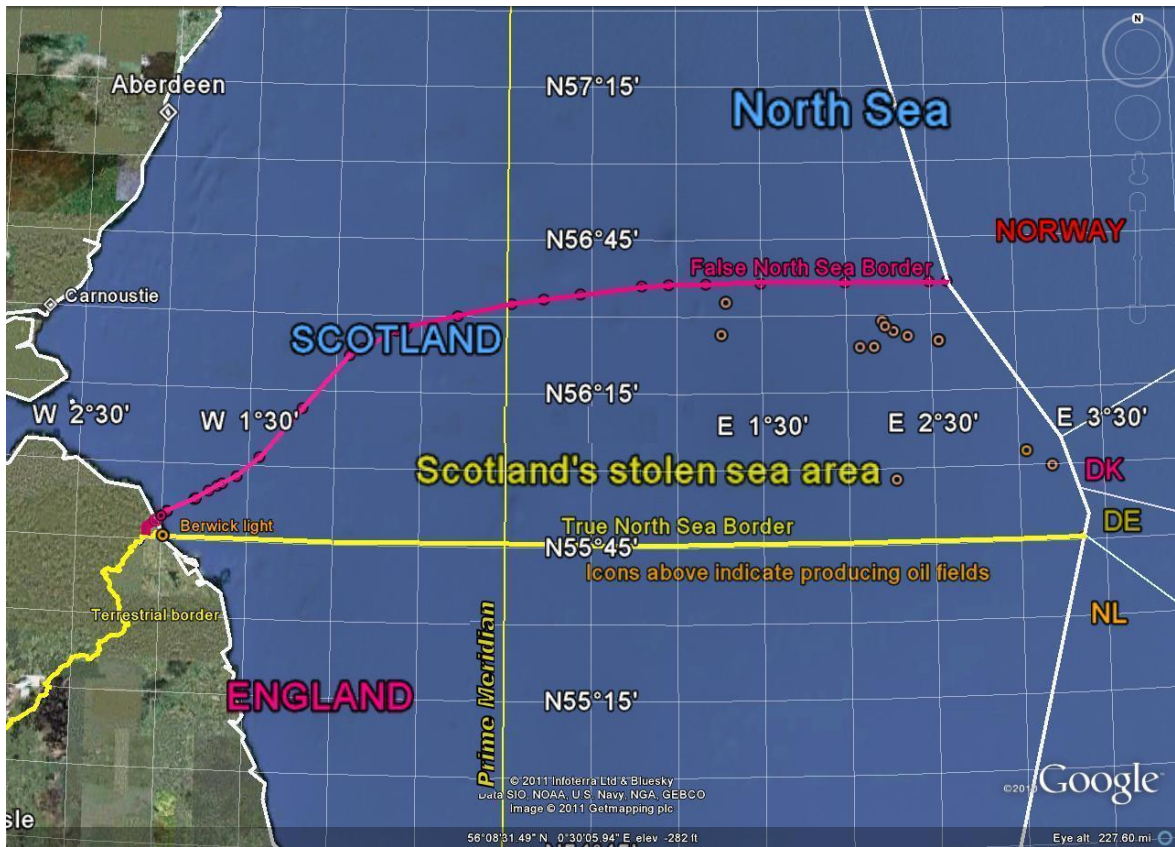
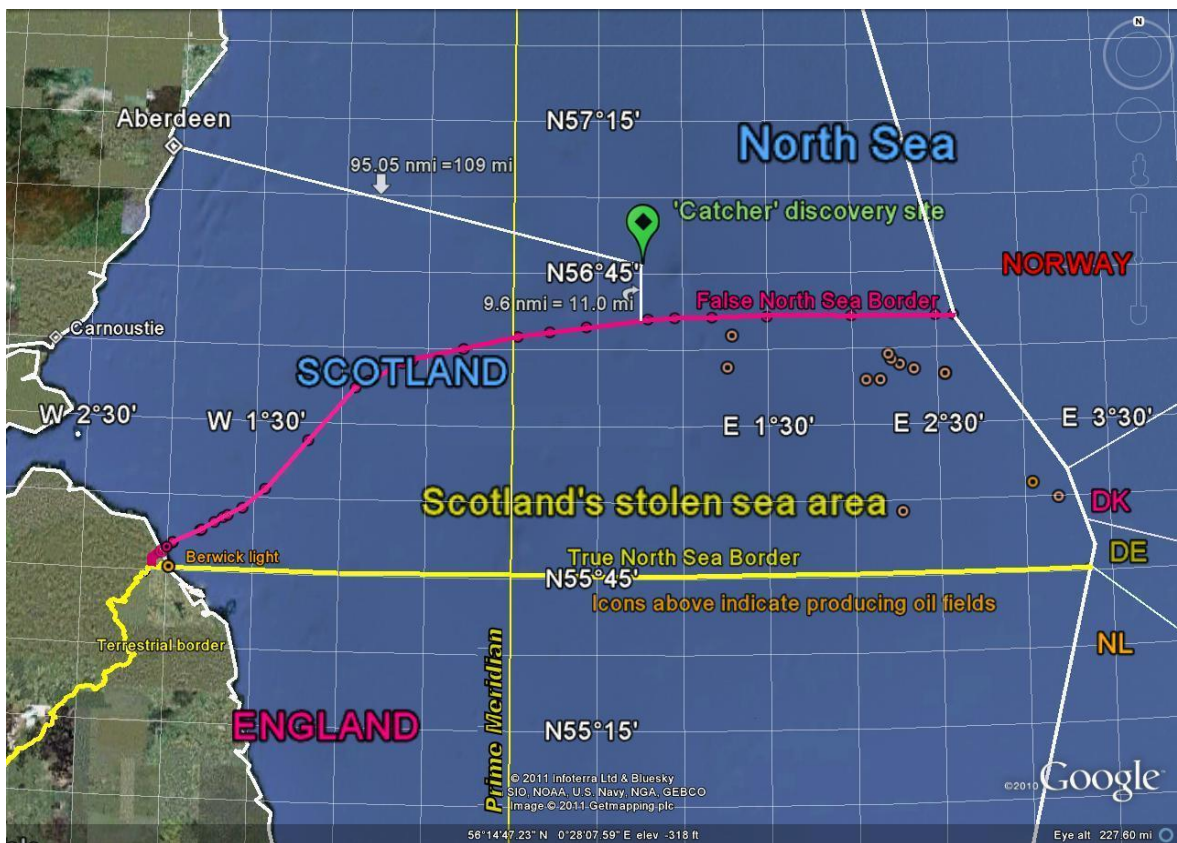


Figure 10. Location of the 'Catcher' oil discovery site



Probable attempt to revise the Scottish Adjacent Waters Boundaries Order 1999

The UK government apparently does plan to revise the Boundaries Order. On 9 March 2005 Richard Lochhead MSP [Cabinet Secretary for Rural Affairs, Food and the Environment in the Scottish Government] made a request to the Scotland Office under the Freedom of Information Act 2000 (“FOIA”). He requested copies of all the relevant government papers and correspondence between UK Ministers and also between the UK Government and both the Scottish Executive and former Scottish Office in connection with the Scottish Adjacent Waters Boundaries Order (SI 1999/1126) (the “1999 Order”).

The Scottish Office and its successor the Scotland Office blocked Mr. Lochhead’s request because, among other reasons, **“...at both the time of the original FOI request and now there was and is active consideration within Government of proposals for a new draft order that would likely be based on the 1999 Order. In our view the release of information relating to the 1999 Order would prejudice the development of the new Order”** [bolding added]. The documents were finally made available by the Information Tribunal, except for “the redactions”¹⁰ to be agreed with the Commissioner”, on 10 March 2009 – four years after they were requested.¹¹

The "new Order" being referred to will undoubtedly be expanded to incorporate oil, gas and other minerals. However, the relevant Hansard extracts, including the one quoted earlier in this article, are proof positive that the 1999 Order was never intended to apply to anything other than fisheries. That was merely a front for an act of treachery that we now see developing before our eyes, but it remains the official purpose for which the 1999 Order was imposed. The Scottish Government should not let anyone in London get away with any unauthorized extension to cover oil, gas, minerals, policing etc.

Earlier Reaction to the North Sea Border Relocation

On 26 April 2000 the *BBC* published an online article headlined ‘Reid [John Reid, who was Scottish Secretary at the time] asked to settle the boundary row’.¹² The request was made by MSPs after the North Sea fishing boundary had been “formalised” so that “the responsibilities of each parliament could be clearly defined”. But “the line was not drawn at the historical boundaries and 6,000 [square] miles of traditional Scottish waters came under English jurisdiction”.

The article further stated: “Scottish fishermen had worked for years on the understanding that the boundary extended east from Berwick, and they were naturally infuriated”, but “Scotland’s fisheries minister John

¹⁰ For example, the names, positions and other details of the perpetrators.

¹¹ <http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs50091442.pdf> and [http://www.informationtribunal.gov.uk/DBFiles/Decision/i202/Scotland%20Office%20v%20ICO%20\(EA-2007-0070\)%20-%20Decision%2008-08-08%20+%20Annexes%20A&B.pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i202/Scotland%20Office%20v%20ICO%20(EA-2007-0070)%20-%20Decision%2008-08-08%20+%20Annexes%20A&B.pdf)

¹² http://news.bbc.co.uk/2/hi/uk_news/scotland/726244.stm.

Home Robertson said the position of the boundary did not create any disadvantages". The article goes on to say that "the agreed border was moved 60 miles north in line with Carnoustie".¹³

On 23 May 1999 *The Herald* "revealed" that Henry McLeish (Scottish Enterprise Minister at that time) was the man who "quietly moved" England's North Sea fisheries boundary 60 miles north.¹⁴ It also stated the move was necessary as a result of Scottish devolution. However, **the spokesman could not explain the constitutional logic of the boundary alteration** [all bolding added]."

On 30 July 2008 *The Herald* published a letter¹⁵, which states, in part:

"Equally shocking is the as yet unexplained and largely secret and unknown move of Scotland's marine boundary from Berwick to Carnoustie, losing Scotland 6,000 square miles of the North Sea, **proposed by Westminster in 1999 and nodded through by the treacherous Lib/Lab coalition in Holyrood - refusing a debate ... The suspicious reasons behind this move, requested under the Freedom of Information Act, have been denied to the SNP government as "it would not be in the public interest"**. Whose public interest do they refer to? One can only hazard a guess at what that means. Admittedly, it is only the fishing boundary that has been moved so far, but expert legal opinion declared the move illegal on three grounds and it is widely felt that it is "**a likely marker for oil and gas**" in the future [all bolding added]."

Dereliction of Duty by the Scottish Government

As far as is publicly known, the Scottish Government has not undertaken any action to have the Scottish Adjacent Waters Boundaries Order 1999 nullified. Given the revenue loss to the Scottish GERS accounts, the Scottish Government's lack of ongoing action is indefensible. Moreover, **the stolen sea area was illegally made subject to English law**. That in itself should be a prima facie case for renewed action.

THE 1999 ORDER APPLIES ONLY TO FISHERIES. It gives the UK Government **no** authority to introduce English law, or to allocate the oil or any other revenues from the stolen sea area to the rest of the United Kingdom. Moreover, as Henry McLeish himself pointed out, **the Order does not alter the common law border in any other respect**. As explained earlier in this paper, the common law border runs due east from the mouth of the River Tweed. **Thus the diversion of the revenues from the stolen sea is unacceptable false accounting, otherwise known as "cooking the books"**.

¹³ Actually it was moved farther north than the latitude of Carnoustie, as Figure 8 shows; however, that does not detract from the substance of the article.

¹⁴ http://www.oilofscotland.org/scotlands_stolen_sea.html#herald1. Scroll down to find this item.

¹⁵ http://www.oilofscotland.org/scotlands_stolen_sea.html#herald1. Scroll farther to find.

Because it has never lodged an official protest with the UK Government about the latter's illegal actions, the Scottish Government is derelict in its duty to the Scottish people.

This dereliction has been compounded by the Scottish Government's tacit acknowledgement of the UK Government's illegal action. On 16 March 2011 the Scottish Government published a comprehensive Marine Atlas¹⁶ and a map purported to be 'Scotland's Sea'¹⁷. The map, although beautiful, is a disgrace to the Scottish Government and an insult to the people of Scotland because it does not show the stolen sea area as being in Scotland where it belongs. This omission is a serious inaccuracy. Again, as Henry McLeish himself pointed out, the Scottish Adjacent Waters Boundaries Order 1999 does not alter the common law border in any respect other than that of fishing, and that border still runs due east from the town of Berwick. **The stolen sea area is therefore still under Scottish jurisdiction for ALL purposes of marine policy, including oil and gas, with the single exception of fishing** – and even then only if the 1999 Order is regarded as valid.

There is therefore no legal justification for omitting the area from any Scottish Government publication, including GERS reports as well as the Marine Atlas. **Tacit acknowledgement of an illegal act can make it much more difficult to force the perpetrator to withdraw it. The Scottish Government should begin legal action immediately on the North Sea theft.**

Besides being a clear violation of the Treaty and Acts of Union, this transfer has a direct deleterious effect on the finances of the Government of Scotland in that no taxes or licence fees derived from activities in the illegally transferred area are credited to Scotland in the periodic Government Expenditure and Revenue Scotland (GERS) reports.

The European Union Menace

The UK's membership of the European Union has been a disaster for Scotland. The European Union has effectively owned Scotland's seas since the imposition of the Common Fisheries Policy (CFP) in 1973. It subsequently virtually destroyed the Scottish demersal fisheries industry and the many coastal villages and controls all the "marine biological resources" (i.e. from whales and basking sharks down to the last frond of seaweed) in Scotland's Exclusive Economic Zone seas. Under existing EU secondary legislation, all national waters right up to the beaches came under exclusive EU fisheries competence from the end of 2012, and are regulated under EU law and not Scots law. Since the Lisbon Treaty also transferred powers over energy to Brussels, fishing is obviously only the thin end of a wedge that will eventually see all marine resources coming under Brussels control. So much for "It's Scotland's oil."

¹⁶ See <http://www.scotland.gov.uk/Topics/marine/education/atlas>

¹⁷ The map can be downloaded at <http://www.scotland.gov.uk/Publications/2011/03/16182005/0>. Be advised that it is 1.4 MB and sized for A3 paper.

The authors of this paper and associates are working toward real independence for Scotland. That means independence from the UK **and** the EU. Without real independence Scotland will have no control over its borders or the myriad of onerous EU-specified regulations.