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Welsh Assembly Government

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MÁNNYSTRE O
**Fairms an
Kintra Fordèrin**

Rules for the management of the UK's fisheries quotas in areas I, II, IV, VI and VII (and associated areas) and in Faroese waters (Vb) for 2011

Issued by the fisheries administrations in the UK

February 2011

Introduction

1. This paper sets out the rules for the management of the UK's fisheries quotas for International Council for the Exploration of the Sea (ICES) areas I, II, IV, VI and VII and associated areas, Vb (Faroese waters) and Atlanto-Scandian herring. There are separate management rules for UK quotas in north Norway, Svalbard and Greenland.

2. The rules are reviewed annually in consultation with the fishing industry and reissued prior to the start of each quota year.

Department for Environment, Food and Rural Affairs/Marine Management Organisation

Welsh Assembly Government

Marine Scotland

Department of Agriculture and Rural Development Northern Ireland

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1. Stocks covered by the rules

1.1 Each year, the EU Council of Ministers sets total allowable catches (TACs) for a range of fish stocks in EU waters for the following calendar year. The following rules will apply to the UK's quotas for specified fish stocks in International Council for the Exploration of the Sea (ICES) areas I, II, IV, Vb, VI and VII and associated areas that are subject to EU TACs, including deep sea species.

1.2 The agreement between the EU and Faroes Home Government provides for reciprocal access to fish stocks. The allocation of Community catch quotas in area Vb (Faroese waters) is set out in the annual Council Regulation which, among other things, allocates certain catch quotas between member states for vessels fishing in Faroese waters.

1.3 The agreement between the EU and Norway provides for reciprocal access to fish stocks. The allocation of Atlanto-Scandian herring quotas in area I, II (EC waters, international waters) among member states is set out in the annual Council Regulation.

1.4 The stocks covered by these rules are all those for which the UK receives a quota in EU legislation. This includes those set out in the annual TAC and quota regulations, and the current deep sea stock Regulation No 1225/2010. It also includes any stock which the UK may gain a quota for in year through, for example, an international swap.

1.5 On receipt of the annual TACs and quota regulations, fisheries administrations (FAs) will advise industry as to which stocks have been "designated" on the grounds of their biological status and which stocks may be banked and/or borrowed under the TAC regulation for the quota year to which these rules apply (section 8). The banking/borrowing (B&B) status of stocks will also be indicated on weekly spreadsheets.

2. Groups eligible to receive allocations

2.1 Ministers may, at their discretion, agree to issue quota allocations for the stocks covered by these rules to the following groups (hereafter in these rules the term "group" is used as appropriate to refer to any of the groups in receipt of quota allocations):

- (i) producer organisations (POs), who may receive "sectoral" allocations to manage on behalf of vessels in their membership
- (ii) the non-sector (comprising vessels over 10 metres in overall length not registered in the Isle of Man, which are not in membership of a PO, or which belong to a PO that has not taken sectoral management responsibilities)
- (iii) the Isle of Man Government, which may receive allocations to manage on behalf of Manx-registered over 10 metre vessels, which are not in membership of a UK PO, or which belong to a UK PO that has not taken sectoral management responsibilities (hereafter referred to as the "Manx non-sector")
- (iv) the "10 mu (non-PO) fleet", comprising vessels of 10 metres and under in overall length which are not fishing against sectoral allocations managed by a PO
- (v) **for pelagic stocks (as defined by administrations) only**, groups of vessels holding pelagic freezer/purser licences, and not in membership of a PO in receipt of an allocation for the

stock in question

- (vi) **for Western mackerel only**, the group of vessels prosecuting the South West mackerel handline fishery (paragraph 4.4)
- (vii) **for Area VIIa herring only**, the group of vessels prosecuting the Mourne herring fishery (paragraph 4.7).

2.2 Groups may request allocations for the following deep sea stocks (hereafter referred to as “allocated deep sea stocks”):

- black scabbardfish (areas V, VI, VII, XII)
- greater silver smelt (areas V, VI, VII)
- roundnose grenadier (areas Vb, VI, VII)
- blue ling (areas VI, VII)
- forkbeard (areas V, VI, VII).

The other deep sea stocks (“unallocated deep sea stocks”) for which the UK has quotas will be managed by the FAs on a by-catch basis. No vessel will be permitted to retain on board or land more than 100 kg of unallocated deep sea stocks, singly or in combination, per trip. Landings of individual stocks will be prohibited once the UK quota has been taken.

2.3 Groups wishing to manage allocations must do so for all stocks of the type which they wish to manage (that is all ‘whitefish’ and/or all ‘pelagic’ and/or all allocated deep sea stocks). This does not apply to the groups identified at (v) and (vi) above, as these may receive allocations only in respect of a single stock.

2.4 Groups wishing to relinquish management of quota allocations in areas I, II, IV, Vb (EC waters), VI, VII and associated areas and in Faroese waters in a particular year must notify administrations by 6 December of the previous year. Thereafter it will not be possible for a group to withdraw from management responsibilities for that year.

2.5 Groups wishing to manage their allocations for the first time should also apply to administrations to be granted sectoral management by the same deadlines as per paragraph 2.4 above. Groups wishing to manage quota allocations in Faroese waters must apply to administrations to do so by 15 November (in order to allow sufficient time for vessels’ names to be placed on the Faroes Access List from 1 January of the following year – see annex E.

3. Basis of allocation

3.1 Since 1 January 1999 a system of fixed quota allocations (FQAs) has operated. Under FQAs, quota allocations are based upon the FQA units associated with vessel licences and licence entitlements, and other eligible units as defined in paragraph 3.5 below. For the 10 mu fleet quota units are not associated with vessel licences but are held and managed as a block by FAs.

3.2 FQA units have been based primarily on landings during the reference period 1994 to 1996. A different reference period has been used for:

- (i) blue whiting I-VIII, XII, XIV, FQA units for which are based on a weighted combination of North Sea blue whiting and western blue whiting FQA units

- (ii) Faroes whitefish quotas, FQA units for which are based on the reference period 1996 to 2000 (Faroes ling/blue ling allocated for the first time in 2004, using FQA units based on the reference period 2000 to 2002)
- (iii) Atlanto-Scandian herring, FQA units for which are based on the reference period 1998 to 2000
- (iv) allocated deep sea stocks (except those noted in (v) below), FQA units for which are based on the reference period 1999 to 2001
- (v) deep sea shark in ICES areas V, VI, VII, VIII, IX, and forkbeard in areas V, VI, VII, FQA units for which are based on the reference period 2003 to 2004
- (vi) tusk, anglerfish, ling and nephrops in ICES Area IV (Norwegian waters), FQA units for which are based on the reference period 2002 to 2004
- (vii) Greenland halibut in ICES areas IIa (EC), IV, VI (EC and international waters), FQA units for which are based on the reference period 2000 to 2004.

3.3 All holdings of FQA units are recorded in the central FQA register held by FAs. FQA units can move in association with any fishing vessel licence entitlement that is being transferred or aggregated onto another vessel, or separately in the following circumstances:

- (i) The holder of a licence entitlement may transfer his FQA units, in their entirety or in part, at any point during the life of the entitlement. A licence entitlement cannot be placed back, either singly or as part of an aggregation, onto the vessel from which it arose if any of the FQA units have been transferred from the entitlement. The only exceptions are if the entitlement holder is able to reinstate the units which have been transferred or to add to the entitlement other FQA units which have the cod equivalent of those which have been removed.
- (ii) A vessel owner wishing to acquire a replacement vessel may transfer the FQA units from his licence to an "FQA holding statement" pending the acquisition of the licence for the replacement vessel, and may subsequently transfer units from the statement under a one-off option during the life of the statement.
- (iii) The owner of a 10 mu vessel, who is required to dispose of FQA units (see paragraphs 12.4 to 12.5 below), may transfer the units from his licence.
- (iv) Where licences are used for the purposes of the correction or modification of engine power the FQA units may be transferred to other licences.

3.4 Quota allocations (appropriately adjusted, as provided for in these rules) will be made to each group in proportion to the total quota units for each stock associated with the group. Where FQA units are being transferred separately from licences (via FQA 2 or 3 forms) under any of the arrangements described in the preceding paragraph, allocations calculations for this year will take account of transfer requests which have been received by FAs by 31 December of the preceding year. Such calculations will not normally take account of transfer requests (that is FQA 2 and 3 forms) received after that date.

3.5 For **POs and the non-sector**, the total number of units will include any units held centrally by groups, and those:

- (i) associated with the licences of properly licensed vessels in membership of each group as at 1 January of each year
- (ii) associated with fishing vessel licences, suspended by ministers as at 1 January, of vessels in membership of the group on that date (paragraph 3.12)
- (iii) attributed to groups for the current quota year under the arrangements set out in paragraph 3.14.

3.6 For the Manx non-sector allocations will be based on units held centrally by the Manx Government, associated with the licences of individual vessels in the Manx non-sector, or attributed to the Manx non-sector under the arrangements set out in paragraph 3.13.

3.7 For **the 10 mu (non-PO) fleet** allocations will be based upon this group's collective FQA unit holdings as at 1 January of the year in question.

3.8 In-year changes in UK quota, including international swaps, are dealt with at section 13.

3.9 Certain allocations are subject to special arrangements, e.g. underpinning for the 10 mu fleet and non-sector and quotas for west of Scotland cod and haddock and western mackerel. These are set out in section 4.

10 mu vessels in the process of acquiring FQA units

3.10 A 10 mu vessel owner may acquire FQA units while fishing as part of the 10 mu fleet but must take up sectoral management within a PO by the end of the year ("year two") following the year in which he first acquired FQA units ("year one").

3.11 Where a vessel has acquired and added FQA units to its licence during year one, but is not being sectorally managed at 1 January of year two, the FQA units associated with the licence will be included in the calculation of quotas for year two. The quota generated by those units will be held in a central pool by FAs, who will consider any request from the vessel owner to transfer quota in-year to a PO once the vessel is under sectoral management. FAs reserve the right to use as they deem appropriate any quota from this central pool which is not transferred to a PO.

Suspended licences

3.12 Where vessels have had their fishing licences suspended by ministers at 1 January of any year, the associated quota units will be included in the calculation of allocations for the group of which the vessel is in membership on that date.

Economic link

3.13 Where licences are downgraded because of non-compliance with the economic link licence condition, the quota generated by the quota units associated with those licences will be held in reserve by FAs. That quota will only be allocated to the groups to which the vessels in question belong once FAs are satisfied that an economic link has been re-established.

Attribution of quota units

3.14 It is open to the following to attribute quota units to a group for inclusion in the calculation of quota allocations for a specific year using an AFL 8 form:

- (i) **holders of over 10 metre licence entitlements**, as at 1 January of each year, will be allowed to attribute the associated quota units to a group for inclusion in the calculation of quota allocations for that year – any quota units associated with entitlements which are not so attributed will be counted towards the quota allocations for the non-sector
- (ii) **holders of 10 mu licence entitlements**, as at 1 January, which have FQA units associated with them, may attribute them to a PO
- (iii) **holders of FQA replacement vessel holding statements** at 1 January each year (see paragraph 3.3 (ii) above).

Forms to facilitate attribution will be issued to the relevant parties by FAs in January.

Fishing vessel decommissioning schemes

3.15 Should any future decommissioning schemes make provision for the retention or transfer of quota units associated with licences surrendered from decommissioned vessels, such quota units will be included in the calculation of quota allocations, subject to compliance with the rules of those schemes.

4. Special arrangements for certain allocations

4.1 The allocations set out below are subject to underpinning (that is, guaranteed minimum levels of allocation) or other special arrangements.

Underpinning of non-sector allocations

4.2 Allocations for the non-sector will be calculated initially on the same basis as for other groups. However, for North Sea cod, sole, plaice and whiting; cod in ICES divisions VIIb to k; plaice and sole in ICES divisions VIId, VIle and VIIf and g and west of Scotland cod, nephrops and whiting, these allocations will also be subject to a system of minimum allocations taking account of the share of the UK quota attributable in 1994 to the non-sector (that is boats not in membership of POs, or in POs which did not take any sectoral management responsibilities as at 1 January 1994). The procedure for the calculation of these minimum allocations is given at Annex A.

Underpinning of 10 mu fleet allocations

4.3 All Area VII whitefish allocations, together with North Sea cod, sole, and whiting, and west of Scotland nephrops allocations to the 10 mu fleet will be subject to minimum floor levels. The floor level for each stock will be a percentage of the UK quota equal to the average percentage share of initial allocations made to the 10 mu fleet in the period 1991 to 1993, and will apply to the allocation before the application of the penalties and compensation arrangements. Details of these percentage shares are set out in Annex B. For certain other stocks, administrations will continue to set minimum amounts: these are also shown in Annex B.

South West mackerel handline fishery

4.4 The quota allocation for the South West mackerel handline fishery will be subject to a minimum allocation, representing either 0.83 per cent of the total UK quota allocation for western mackerel or the figure of 1,750 tonnes, whichever is the greater. All landings by vessels fishing for mackerel by handline in ICES areas VIIe, f, g and h will be counted against this allocation. Landings by vessels fishing for mackerel by handline in other areas will be counted against the quota allocation of the group (PO, non-sector or 10 mu fleet) to which the vessel belongs.

Area IVa 10 mu handline mackerel fishery

4.5 The quota allocation for 10 mu vessels fishing for mackerel by handline in Area IVa will be subject to a minimum allocation of 300 tonnes. Under current arrangements, this amount is divided initially between the Moray Firth (171 tonnes) and Shetland/Orkney areas (129 tonnes) (as defined) and managed as two separate fisheries, access to which is dependent on a vessel having an entitlement (issued by Marine Scotland) to prosecute the fishery. The distribution of any additional IVa quota between these two areas will be determined by FAs having regard to uptake in each area at the time. This allocation may be caught only in Area IVa and not in areas IIIa, IVb or IVc.

Area IVbc 10 mu handline mackerel fishery

4.6 FAs will endeavour to acquire sufficient quota to allow for the opening of a 10mu handline mackerel fishery in area IVbc in accordance with seasonality.

Mourne herring fishery (Area VIIa)

4.7 This is a small seasonal fishery exploited by vessels of 12.2 metres and under in length using drift nets of a minimum mesh size of 54 mm. The vessels prosecuting the fishery are based in ports situated on the east coast of Northern Ireland, south of latitude 55 degrees north. Details of the waters in which these vessels may prosecute the fishery are set out in article 20, paragraph 1 (f) of Council Regulation (EC) No. 850/98. The allocation and management arrangements for this group of vessels will be determined by FAs following consultation with groups with an interest in the fishery and taking into account the need to secure a minimum allocation which will meet the particular needs of the fishery.

Area VIIg-k herring fishery

4.8 Access to this fishery will generally be restricted to the 10 mu fleet as a result of the limited quota available to the UK.

Western mackerel

4.9 The annual TAC regulations permit the UK to catch part of its western mackerel quota in ICES Division IVa for part of each year (1 September to 15 February). The ceiling on the quantity which may be so taken by the UK will be apportioned between groups (other than the group of vessels prosecuting the South West mackerel handline fishery) pro rata to their overall allocations for Western mackerel.

Area VIIa haddock

4.10 Area VIIa allocations will be calculated based on groups' quota units for cod and whiting in Area VIIa.

North Sea herring industrial by-catch

4.11 The UK's allocation for this stock will not be allocated between groups but will be available as a by-catch to all suitably-licensed UK vessels subject to any conditions set out in the TAC regulations.

Hague Preference

4.12 Where the UK obtains additional fish under the Hague Preference arrangements, a separate industry consultation paper will be issued, in time for this to be reflected in provisional allocations, seeking views on how this additional fish should be distributed.

Faroese fishery

4.13 Access to this fishery (through a bespoke licence issued by FAs) will normally be restricted to those vessels nominated by their PO in accordance with the arrangements set out in Annex E. Conditions relating to fishing while vessels are in Faroese waters are set out in the appropriate licence and in the various Faroese regulations and executive orders which are issued to POs/fishery offices from time to time by administrations.

Atlanto-Scandian herring fishery

4.14 Access to this fishery will normally also be restricted to those vessels nominated by their PO/group subject to a limitation on the number of licences available for vessels wishing to fish in Norwegian or Faroese waters. See Annex F for further details of the management and licensing arrangements for this fishery.

Western hake flexibility

4.15 The TAC regulations permit the UK to take part of its western hake quota in areas VIIIa, b, d and e. In calculating quota allocations FAs have apportioned this "flexibility" tonnage as an "of which" permission pro rata to groups' allocations for Western hake. Should similar provision be made in this year's TAC regulations, the same arrangements will apply. Additionally, groups may, with the approval of FAs, also transfer all or part of their western hake allocation to be added to their North Sea allocation and caught in this area.

Area VII skate flexibility

4.16 Up to 5 per cent of the UK's initial quota of skates/rays in EU waters of VIa, VIb, VIIa-c and VIIe-k may be fished in EU waters of VIId and vice versa.

New TACs/quotas and quota "flexibility" provisions

4.17 Unless covered elsewhere in these rules, in the event of new TACs/quotas or special flexibility condition ("of which") stocks being created for the first time, FAs will consult with relevant groups on how such stocks should be allocated and managed.

Catch quotas

4.18 Where such a scheme operates in the quota year, this will be the subject of separately published arrangements.

5. EU deductions for UK overfishing

5.1 Article 105 of Council Regulation No. 1224/2009 (“the Control Regulation”) contains provisions on the deductions of quota from member states which exceed their quota allocations. These provisions, together with the arrangements for applying them to the quota stocks covered by these rules, are set out below.

5.2 In the event of a UK overfish, the deductions set out in paragraphs 5.3 to 5.10 below will be applied to the following year’s allocations in addition to any other deductions to compensate prejudiced groups which may also be payable under section 6 below.

5.3 Where the UK overfishes a stock by fewer than 100 tonnes, a deduction equal to the amount of the overfish will be made from its quota for the following year. Where the UK overfishes its quota by more than 100 tonnes, the following scale of deductions will be applied to its quota for the following year:

Overfish	Deduction
Up to 5 per cent	Overfishing x 1.0
Over 5 per cent up to 10 per cent	Overfishing x 1.1
Over 10 per cent up to 20 per cent	Overfishing x 1.2
Over 20 per cent up to 40 per cent	Overfishing x 1.4
Over 40 per cent up to 50 per cent	Overfishing x 1.8
Any further overfishing greater than 50 per cent	Overfishing x 2.0

5.4 The multiplying factors in the table above will be increased by 50 per in the event that either:

- the UK has repeatedly overfished its quota, allocation or share of the stock or group of stocks over the previous two years and these overfishings have been the subject of deductions as referred to in paragraph 5.2 and
- the available scientific, technical and economic advice and in particular the reports drawn up by STECF have established that overfishing constitutes a serious threat to the conservation of the stock concerned, or
- the stock is subject to a multiannual plan.

5.5 Should the UK exceed its quota for any stock, the total deduction from the UK’s quota in the following year will be calculated by the Commission using the sliding scale described above. The total UK deduction will then be apportioned between all UK groups which overfished pro rata to the amount of their overfishes of their end-year allocations.

Overfishing “special condition” quotas

5.6 Where a member state overfishes the “of which” element of a quota, a deduction will be made not only from the member state’s quota for the “of which” element, but also from the main quota, even where the latter has not been exceeded.

Statistical basis

5.7 The Commission examines member states' uptake of quotas on the basis of the final EU catch report. Since these reports are in general not finalised until March/April of the following year, it may be that the Commission's decisions on deductions for overfishing are not taken until after provisional (or even final) allocations have been issued to the UK industry.

5.8 FAs will therefore, if required, make the necessary deductions initially on the basis of the UK's own figures (the final UK spreadsheets), which should be available by the end of February. Administrations will reflect these deductions in groups' provisional and final allocations if the final level of EC deductions has not been agreed at that time.

5.9 Should the Commission's deductions be lower than those already made on the basis of the UK's own figures, the balance will be restored to the groups from which those deductions were made. Should the Commission's deductions be greater, it will be necessary to make further, in-year, deductions from the allocations of those groups which contributed to the overfish.

Repayment by groups which do not overfish or in another stock

5.10 Should the allocations of groups which overfished in the previous year prove insufficient to offset in full any penalties imposed under paragraphs 5.2 and 5.3 above, the balance will have to be deducted from the allocations of groups which did not overfish in that year. There may also be occasions when a deduction according to paragraphs 5.1 and 5.2 cannot be made because the UK quota, allocation or share of a stock or group of stocks is not or not sufficiently available to pay the penalty. In such a case Article 105 of 1224/2009 provides that the Commission may deduct quota for other stocks or groups of stocks in the same geographical area or with the same commercial value. This may also lead to groups in the UK not responsible for the original overfish being penalised. If either of these circumstances arise administrations will consider how the groups which overfished should provide compensation for the other groups which have been disadvantaged, for instance by making repayment in another stock acceptable to those groups. Should the latter require compensation in the same stock, the groups which overfished would have to provide such compensation in the following and/or subsequent years.

Cases of historic overfishing of UK quotas

5.11 Where, as a consequence of the uncovering of historic over-fishing of UK quotas (that is overfishing in one or more years prior to that immediately preceding the current year), the UK is required to enter into arrangements with the Commission to pay back quota either in the current quota year or over a longer period, FAs may put in place whatever arrangements they deem necessary (legal and/or administrative) to ensure that such obligations can be met at a UK, group and individual vessel/licence level.

5.12 It follows from the above that any group considering accepting a licensed vessel into membership either from 1 January or in-year, or any potential purchaser of a vessel licence and/or associated FQA units, must first ensure through the relevant fisheries administration that the vessel/licence in question are not subject to any such quota payback arrangements. Failure to do so may result in an additional deduction of quota from a group's provisional allocations or from quota deriving from the FQA units associated with a licence which may be subject to such arrangements.

5.13 The administrative arrangements which have been put in place from 2007 onwards to ensure that the UK can meet its pelagic payback obligations arising from the under-declaration of pelagic

landings in the period 2001 to 2005 and enshrined in Commission Regulation (EC) No. 147/2007 of 15 February 2007 are set out in Annex G to these rules.

6. Quota deductions for end-year overfishing where there is no UK closure

Where POs overfish their end-year allocations without the prior authority of FAs, but no UK closure has been affected.

6.1 The **minimum** quota deduction from groups overfishing their allocations by year-end will be:

Overfish (as a percentage of end year quota)	Deductions
Up to and including 5 per cent	Overfishing x 1.1
Over 5 per cent up to and including 10 per cent	Overfishing x 1.2
Over 10 per cent up to and including 20 per cent	Overfishing x 1.3
20 per cent or more	Overfishing x 1.4

6.2 FAs will consult on whether quota deducted under paragraph 6.1 should be made available to underfished groups, such as to address reduced banking opportunities, pro rata to their initial allocations (before adjustments for overfishing).

6.3 Where the minimum deduction exceeds a group's allocation, the remainder will be paid off over future years until the penalty is covered. Until then the group will have zero allocation for the stock and will be closed to the fishery from the start of each year; the group will have to maintain sectoral management of allocations until the penalty is paid off. If the offending group swaps in more than enough fish to cover the penalty, FAs will consider reopening the fishery to the group.

6.4 The 10mu (non-PO) fleet, and the groups of vessels prosecuting the SW mackerel handline fishery and Mourne herring fishery, will not be subject to the penalties in section 6.1.

7. Quota deductions for end-year overfishing in the event of a UK closure

Where POs overfish their end-year allocations without the prior authority of FAs resulting in the need for a UK closure.

7.1 Where FAs believe that the level of a group(s) uptake requires a UK closure* to the end of the year, FAs will write to all groups at the time of a UK closure to explain the reasons for it and, if appropriate, will identify the group(s) that caused it. The group(s) will be informed that, irrespective of their reducing/wiping out their overfish by year-end, they must compensate any groups prevented from taking their allocation in full due to the closure. In order to provide this compensation, tonnage deducted under paragraph 6.1 will be used. If this is insufficient, the further amount required to fully compensate will be taken from the offending group(s).

* A UK closure will also be deemed to have occurred where all groups other than the 10 mu fleet have been prohibited from making further landings of a specified stock.

7.2 The arrangements set out in paragraph 7.1 will be subject to the following provisions:

- (i) Where a UK closure is temporary (fishery re-opened before year-end), groups unable to take their full quota by year-end may receive compensation calculated against their likely level of

uptake. This will be based on fishing patterns in previous years and calculated for the period of closure, up to a maximum of their end of year underfish. The overfishing groups' contributions shall be calculated following the rules described in paragraph 7.1. Cases will be considered on their merits, but, and subject to the timing of such a closure, a temporary closure of two weeks or less before 15 November is unlikely to merit compensation.

(ii) The rule of paragraph 6.3 also applies to Section 7.

(iii) FAs reserve the right to require the payment of deductions for overfishing, including any which currently remain unpaid, in another stock (normally in the year following the overfish).

(iv) If a PO (or group of pelagic vessels) had vessels operating in the non-sector, but then managed its own allocation in the following year, any deductions payable to, or compensation to be received by, the non-sector as a consequence of overfishing will be shared proportional to the two groups' landings for the first year. Thus, if the non-sector allocation was exceeded by 20 tonnes in year 1, and a PO operating within the non-sector made 50 per cent of the landings, then the allocation of the PO in year 2 would be adjusted downwards by 10 tonnes (that is 50 per cent of 20 tonnes) if the PO opted for sectoral management of the stock for year 2.

7.3 The 10mu (non-PO) fleet, and the groups of vessels prosecuting the SW mackerel handline fishery and Mourne herring fishery, will not be subject to the penalties in section 7.

8. Banking and borrowing

8.1 EC Council Regulation Nos. 847/96 and 1224/2009 contain provisions which, subject to various conditions, allow member states to bank unused quota for use in the following year, or to borrow part of their next year's quota for use in the current year.

8.2 For the purposes of banking quota from this year into the next, FAs do not propose to invite bids from individual POs. Instead, FAs will submit to the European Commission by the 31 October deadline a request to bank up to 10 per cent of all bankable stocks for which the UK has quota.

8.3 The quota that the UK is able to bank from the current year into the next will be distributed to those groups who underfished their end-year quota allocation in the current year (that is whose end-year uptake is less than 100 per cent). For all groups, average end-year landings in the current and preceding year (that is 2011 and 2010) would be multiplied by average end-year percentage uptake in the same period. This would be a one-stage calculation to arrive at an index of tonnage from which pro-rata shares of banked quota would derive.

In distributing banked quota in the current year, any quota which a group received in the previous year through reallocation, and which remained uncaught by the recipient group at the end of that year, will be credited to the donor groups which provided it. In calculating the distribution of banked quota, penalties for overfishing will be made on the basis of calculations rounded to one decimal place.

8.4 FAs will write to POs in mid-September to invite applications from POs to borrow quota from next year to use in the current year – the deadline for these will be mid-October. Where applications exceed the amount available to the UK for borrowing, they will be adjusted pro rata to final allocations. FAs will not accept applications where the PO is in an overfish at the date of application. POs may make one application per year per stock. Banking arrangements will not be affected by borrowing.

8.5 Windfall banking: any banked quota granted by the Commission in excess of the expected amount calculated using the final weekly spreadsheets will be allocated based on the distribution methodology outlined in paragraph 8.3.

9. Group membership lists and timetable for allocations

Group membership lists

9.1 Groups are required to supply FAs with membership lists for both licensing and quota allocation purposes. Details of the various lists required are set out in Annex C.

9.2 Where there is a conflict between groups about the membership of a particular vessel (that is vessel membership being claimed by more than one group), and in the absence of completed documentary evidence, administrations reserve the right to apply special arrangements for counting the quota units of the vessel in question until such time as the matter has been resolved to the administrations' satisfaction.

Timetable for allocations

9.3 Administrations will endeavour to issue provisional quota allocations to groups by mid-March, and final allocations by mid-April.

10. Movement of over 10 metre vessels between groups during the quota year

10.1 POs must submit to FAs completed PO1 forms by email only (copied simultaneously to a vessel's port of administration) whenever a vessel joins or leaves a PO. That action must be taken within two weeks of a vessel joining or leaving a PO, whichever is appropriate. If POs are unable to establish a vessel's port of administration from its owner/agents, they should contact the appropriate quota managers in FAs prior to emailing a PO1 form.

10.2 Where a vessel leaves a PO to join another, its landings will continue to be attributed to the PO it is leaving until such time as FAs receive a PO1 form from both POs involved. That vessel will not be re-licensed until administrations receive both PO1 forms. Moreover that vessel will not be entitled to fish because the licence previously held will have been rendered invalid by its change in PO membership.

10.3 All landings will normally be attributed to the group of which the vessel is a member as at the date of landing. However, administrations reserve the right to attribute the landings from any voyage to the group of which the vessel was a member at the start of the voyage.

10.4 Where a vessel which was in a PO on 1 January of the quota year leaves and joins the non-sector, it will bring with it the quota value (to the PO) of its FQA units, adjusted for its landings while in the PO. Where the vessel has already made landings equivalent to the value to the PO of the vessel's FQA units for a stock, no quota transfer will be made to the non-sector for that stock and the vessel will be prohibited from fishing in the non-sector for the stock in question for the remainder of the year. If the vessel subsequently moves from the non-sector to the same or another PO during the quota year, the same principle will apply: in other words, administrations will transfer to the new PO the quota value (to the original PO) of the vessel's FQA units adjusted for its landings while in the original PO and the non-sector.

10.5 No in-year quota transfer will be made in respect of a non-sector vessel (which was in the non-sector on 1 January of the quota year) joining a PO.

11. Admission to the non-sector

11.1 Except where the arrangements set out in Annex H apply, no vessel will be allowed to fish in the non-sector unless its licence carries at least the FQA units associated with that licence at 1 January 2008 or their equivalent. Where a licence has been created since 1 January 2008 by the aggregation of licence entitlements, it must retain the FQA units associated with the donor licences at 1 January 2008 or their equivalent in cod equivalent terms. Where a licence which was attached to a vessel which fished in the non-sector prior to 2003 (that is when the conditions in this paragraph were first introduced) had its FQA units removed prior to 2003 (either in whole or in part), and which subsequently left the non-sector and then re-joined the non-sector group after 2003, the FQA units associated with the licence as at 1999 will not require to be re-instated.

11.2 Notwithstanding the requirements set out in paragraph 11.1 above, where a vessel leaves a PO to fish in the non-sector either in-year or from 1 January, FAs reserve the right to require that vessel's licence to bring with it the FQA units equivalent to the non-sector catch limits in the previous full quota year. Quota managers in FAs will be alerted to such cases before a non-sector licence is issued by fishery offices.

11.3 The arrangements for the admission of vessels to the Manx non-sector will be determined by the Isle of Man Government. A vessel which has fished as part of the Manx non-sector will not be allowed to fish in the (UK) non-sector unless its licence carries the FQA units associated with it at 1 January 2008 or their equivalent.

11.4 Where a licensed vessel moves from a PO to the non-sector, or where a licence from a vessel in PO membership is to be placed upon a vessel fishing in the non-sector, administrations will ask the PO to which the vessel/licence belonged to confirm that it was not subject to any agreement to transfer quota derived from its FQA units, or the FQA units themselves, to another licence/licensed vessel within the same or another PO. In the event of such an agreement the licence/licensed vessel will not be allowed to join the non-sector unless equivalent additional units are acquired by the licence holder.

12. Movement of 10 mu vessels between POs and the 10 mu (non-PO) fleet

12.1 No transfer of FQA units or quota will be made to POs from the 10 mu (non-PO) fleet's collective holding of FQA units or quota allocations when 10 mu (non-PO) vessels commence fishing against PO allocations.

12.2 An 10 mu vessel, which was fishing as part of the 10 mu fleet at 1 January, may switch to fishing against PO allocations in-year, provided that the vessel has secured PO membership not only for the remainder of the current year but also for the entirety of the following year.

12.3 No vessel fishing against a PO allocation will be able to revert to fishing against the allocations for the 10 mu (non-PO) fleet in-year.

12.4 Before rejoining the 10 mu (non-PO) fleet a vessel must divest itself of any FQA units associated with its licence.

12.5 Where a PO only has sectoral management responsibilities for white fish stocks, a 10 mu vessel wishing to fish against that PO's allocations must divest itself of any FQA units for pelagic stocks, for which it will fish as part of the 10 mu (non-PO) fleet (and vice versa in the case of a PO holding sectoral allocations for pelagic stocks only).

13. Changes in UK quota

13.1 Quota increases resulting from international swaps will normally be distributed according to the rules set out in Annex D.

13.2 Other additional quota obtained by the UK in-year will normally be distributed pro-rata to groups' final quota allocations (prior to the application of any penalties and compensation).

13.3 In-year reductions in quota will be dealt with on their merits, according to the circumstances at the time and in consultation with industry.

14. Domestic quota swaps and transfers

14.1 The minimum quantity of a stock which may be swapped or transferred between groups will be 0.1 tonne for all white fish stocks and deep sea stocks, and 1 tonne for all pelagic stocks.

14.2 Groups are free to agree the terms of quota swaps or transfers between themselves, although such arrangements remain subject to administrative approval. Administrations will not sanction what they consider to be an inappropriate swap or transfer, such as one which would leave a group with a negative allocation. Where such a swap (or other circumstance) leaves a group with an allocation of one tonne or less the fishery will normally be closed. FAs will consider requests to open such fisheries on a case by case basis.

14.3 Where one or both of the parties to a swap which has been submitted to a fisheries administration requests that the swap be cancelled, a further swap form must be submitted to the administration, reversing the original swap, and authorised by both parties.

14.4 Prior to the issue of provisional allocations, no PO will be able to swap out more than 70 per cent of its initial allocation for the previous year multiplied by the percentage increase or decrease for that stock agreed at the preceding December Council. Once provisional allocations have been issued, a similar limit will normally apply until final allocations have been issued.

14.5 For stocks which incorporate a flexibility "of which" provision, quota transfers may relate to the main stock and/or to the "of which" element. A transfer involving the "of which" element alone does not change the quotas for the main stock held by the two groups concerned, but merely adjusts the relative amounts which they can take in the "of which" area from within their overall allocations. In submitting swap requests for such stocks groups must make the exact nature of the transfer clear, by following the notes accompanying the swap form, or any additional guidance issued in-year by administrations.

14.6 Administrations will negotiate swaps or transfers for the non-sector and the 10 mu fleet.

15. Reallocation

15.1 Administrations recognise that the primary means of maximising uptake of UK quota is the facility for the swapping of quota between groups. However, administrations reserve the right, after consultation with those concerned, to take quantities of individual stocks from any group which appears to them unlikely to be able to catch its allocation in full, and to reallocate this amongst those groups most likely to make use of it.

15.2 In considering any requests from groups for reallocation administrations will have regard to whether those making the request have made genuine efforts to acquire additional quota through realistic swaps with those groups holding surplus quota.

15.3 The treatment of reallocated quota in the context of distributing banked quota is explained in paragraph 8.3.

16. Monitoring of landings

16.1 In order to enable administrations to monitor landings, and ensure that they are in line with figures available to them, groups taking sectoral allocations will be required to provide such information as administrations may require about each fishery. In particular, groups must inform administrations immediately the group's own landings figures indicate that it has landed (a) 70 per cent and (b) 85 per cent of its quota allocation for any stock. When, in the view of administrations, a group's allocation risks being reached, the group must, if requested by administrations, supply daily landings data within two days of landings taken place.

16.2 Administrations will provide groups with regular information on quota uptake recorded on administrations' computers. Where information provided by administrations appears to be at variance with the records held by the group, groups should notify administrations of the nature of any differences as soon as possible so that checks can be made.

16.3 For whitefish stocks administrations will provide groups with weekly uptake spreadsheets. In addition, monthly PO cross-checks will be issued which list the monthly catches of individual vessels by quota stock. For pelagic stocks, administrations will issue groups with weekly uptake spreadsheets and, by arrangement, group cross-checks showing landings by vessel and stock.

16.4 Where administrations judge that a group has taken in full its allocation for a stock, FAs will normally consult the group concerned before closing the fishery to the group's vessels. Any closure of a fishery to a PO will apply to all the PO's vessels, both over and under 10 metres, fishing against the PO's allocation for the stock in question.

Treatment of pair trawl landings

16.5 All landings will be attributed to the vessel making the landing.

Treatment of landings made during a scientific survey

16.6 In accordance with the terms of Article 33(6) of Council Regulation (EC) No. 1224/2009 of 20 November 2009 ("The Control Regulation"), catches taken in the framework of scientific research which are marketed and sold do not have to be counted against the relevant UK quotas provided

that they do not exceed 2 per cent of the quota. Such catches will be monitored separately from the uptake of PO allocations by FAs. Any catches in excess of 2 per cent which are marketed and sold will be counted against PO/pool allocations in the usual way.

Real-time adjustment of landings data

16.7 FAs' letter of 15 September 2004 explained that, from that date, real-time adjustments to quota uptake (landings data) would be made by administrations as soon as it became apparent that landings had been mis-declared. Administrations will aim to ensure that the correct quantities of fish landed are entered onto the database within two months of the discovery of incorrect data. Where it is not possible to take account of the correct figures in-year for quota management purposes, for example towards the end of the quota year, administrations will adjust the following year's allocation(s) for the relevant stock(s) of the group to which the vessel belonged at the time of the landing in question.

16.8 Where adjustments to landings data are proposed as set out above, the master of the vessel at the time of the landing in question will be sent a letter by quota managers in FAs setting out the facts of the case and given the opportunity to comment or make representations on the matter, normally within three weeks of the date of the letter. (The letter will be copied to the PO in which the vessel was in membership at the time of the landing in question.) Appeals will be dealt with within the FAs independently of those responsible for deciding initially on the case. If, having considered such representations, the administration is satisfied that reasonable grounds still exist for adjusting landings data, a letter confirming the adjustment will be sent to the master (copied to relevant PO).

17. Responsibilities of POs

17.1 Before being granted sectoral management responsibilities, and to continue to qualify for sectoral allocations, POs must have in place effective arrangements for monitoring landings by their members; for enforcing PO catch restrictions; and for imposing appropriate penalties on any members who are in breach of those restrictions. POs will supply FAs with details of all these arrangements, and with copies of the POs' internal quota management rules, including any changes which are subsequently made. The information should be supplied in a timely manner and FAs will write to POs seeking the information with deadlines specified.

17.2 POs will continue to be the primary channel of contact between FAs and their members on all matters covered by these rules. It is thus for POs to ensure that their members are aware of these rules and of all obligations which flow from them. FAs also expect POs to take full responsibility for ensuring that they have the appropriate procedures in place for supplying to administrations all lists and other information which these rules require.

17.3 For all quota management matters, POs will normally correspond with their 'home' administration (such as Scotland-based groups with Marine Scotland). Other (ad hoc) arrangements may be agreed by administrations where that would be appropriate to the circumstances of a particular fishery

17.4 POs must supply the appropriate administration with full details of the catch limits they set for their membership, including any annual, company or individual vessel quotas, and advise them immediately of any changes to these limits.

17.5 POs must advise FAs of any infringements of their catch restrictions or other quota management rules by their members, together with details of the action taken by the PO in each

case. Such notification (or “nil return” where appropriate) should be supplied in the form of quarterly returns, to be sent by the PO to the quota management branch of the relevant fisheries administration by the first week in April, July, October and (for the last quarter of the year) mid-January.

17.6 From 1 January 2011, FAs have put in place arrangements to support disciplinary actions by POs. These arrangements are set out in detail at Annex H and will apply to PO members that have been the subject of disciplinary action and have been penalised by their PO for a breach of its rules, but who have not settled the penalty imposed.

18. Variation of rules

18.1 The rules set out in this paper are subject to review and amendment to respond to changes in circumstances, for example as a result of decisions made by the Council of Ministers.

18.2 FAs reserve the right, after consultation wherever possible, to depart from these rules should the need arise.

**Fisheries administrations
February 2011**

Annex A: Whitefish allocations: Methodology of non-sector underpinning

The detailed methodology used is as follows.

(A) Initial calculation of underpinned quota shares

- (i) The 1991 to 1993 track records for all vessels included in the 1994 allocations exercise formed the base data for assessing the underpinning levels.
- (ii) For the non-sector, the main prosecuting vessels (that is the 'qualifying vessels') for each stock were identified by establishing a minimum 'qualifying track record'. The level of this was set so that the aggregated track records of all qualifying vessels formed about 95 per cent of the total non-sector track record for that stock.
- (iii) The qualifying vessels for 1994 were broken down into three length groups. These length groups were under 40 feet, 40 to 60 feet and over 60 feet overall length (under 12.2 metres, 12.2 to 18.29 metres and 18.3 metres and over).
- (iv) In each of the length groups, and for each stock, the total track records for all UK vessels and the track record for just the 'pure' non-sector vessels were calculated. The quota share per vessel for each length group was then calculated using the following formula:

$$(P / T) / N$$

where

P = 'Pure' non-sector track record for length group
(the 'pure' non-sector excluded vessels in membership, at 1 January 1994, of POs which fished against non-sector allocations for the stock in question)

T = Total track record for all UK vessels irrespective of length group

N = Number of qualifying vessels in the length group.

(B) Calculation of underpinned allocation for the current quota year

(v) For each underpinned stock, the track records for the previous three years of licensed vessels in the non-sector at 1 January of the quota year will be used to identify the number of qualifying vessels for each length group by applying the same qualifying track record as used for the base-year.

(vi) The underpinned quota share for each length group will then be calculated by multiplying the quota share per vessel by the number of qualifying vessels at 1 January of the quota year. The shares for each group are added together to obtain an overall share figure for the non-sector.

The qualifying track records mentioned at (ii) and the quota shares per vessel mentioned at (iv) are set out in the attached schedule.

Fisheries administrations

Underpinning of non-sector allocations
Qualifying track records and quota shares per vessel

Stock	Qualifying track record (tonnes)*	Length band		
		Under 40 feet	Between 40 and 60 feet	Over 60 feet
Quota share per vessel (per cent)				
North Sea				
Cod	6	0.02	0.03	0.04
Plaice	6	0.03	0.04	0.19
Sole	1	0.08	0.16	0.16
Whiting	2	0.01	0.01	0.04
West of Scotland				
Cod	1.5	0.03	0.04	0.06
Nephrops	10	0.13	0.26	0.15
Whiting	3	0.14	0.15	0.18
Area VII				
Cod VIIb-k	1.5	0.11	0.12	0.16
Plaice VIIde	2	0.17	0.18	0.10
Plaice VIIfg	0.65	0.44	0.63	0.42
Sole VII d	0.5	0.16	0.13	0.11
Sole VII e	0.25	0.07	0.1	0.1
Sole VII fg	0.3	0.18	0.25	0.14

* Represents the minimum total tonnage per vessel caught during 1991 to 1993 by those vessels in the non-sector at 1 January 1994, which in the preceding three years collectively accounted for 95 per cent of total non-sector landings.

Annex B: Underpinnings of allocations for the 10 mu fleet – minimum floor percentages and fixed nominal amounts

Stock	Floor percentage	Fixed minimum tonnage
North Sea		
Cod	4.50	-
Haddock	-	100
Whiting	0.33	-
Saithe	-	20
Plaice	-	-
Sole	9.81	-
Hake	-	-
Nephrops	-	-
Norway others	-	-
West of Scotland		
Cod	-	10
Haddock	-	10
Whiting	-	10
Saithe	-	5
Plaice	-	5
Sole	-	-
Anglers	-	5
Nephrops	9.56	-
Megrim	-	5
Pollack	-	5
Area VII		
Sole VIIa	9.00	-
Sole VIIId	34.80	-
Sole VIIe	5.20	-
Sole VIIfg	8.10	-
Sole VIIhjk	0.00	-
Plaice VIIa	4.60	-
Plaice VIIde	21.00	-
Plaice VIIfg	18.70	-
Plaice VIIhjk	0.00	-
Cod VIIa	1.60	-
Cod VIIb-k	25.70	-
Cod VIIId	25.70	-
Cod VIIb-k (excluding VIIId)	25.70	-
Whiting VIIa	1.40	-
Whiting VIIb-k	12.00	-
Saithe	1.90	-
Anglers	5.10	-
Megrim	1.50	-
Haddock	3.30	-
Hake	1.00	-

Pollack	10.90	-
Nephrops	0.70	-

Annex C: Group membership

1. Each year, FAs will consult groups to verify that central records correctly reflect group membership and, thereby:

- a) the correct licences are issued to vessels, and
- b) each year's quota allocations to groups are based on accurate data in respect of group membership at 1 January (and other relevant factors, such as the attribution of licence entitlements).

2. These consultations will involve exchanges of data between administrations and groups, and will take the form of various lists which contain details of member vessels/licence entitlements and so on. For each entry in all the Lists, the licence number and the associated vessel's name, registration number (RSS) and port letter and number (PLN) is required.

3. All such lists will be exchanged in computer readable form. Alternatively, if facilities to provide the information required by email or on disk are not available, typewritten lists, listing entries in licence number order, rather than alphabetical order of vessel name, may be provided.

Licensing lists required by January for quota allocation purposes

4. FAs will issue full licensed vessel lists to groups in early January which will reflect group membership as at 1 January. This list will be known as "**List 1**".

5. Groups will be required to examine these lists and report any discrepancies with supporting documentary evidence to the relevant fisheries administration within two weeks of receipt. FAs will use this information to update central vessel lists for the purpose of issuing licences for the relevant year **but only where completed PO1 forms have been received from both groups involved dated prior to 1 January.**

6. FAs will issue final licensed vessel lists to groups to include any agreed amendments by the last week in January. This list will be known as "**List 2**".

7. Further alterations to administrations' records of group membership will only be considered after the dates set out in this annex in exceptional circumstances. Failure by groups to meet the deadlines set out in this annex or provide the necessary information in the appropriate format may result in administrations being unable to take account of representations made by group before quota allocations are made.

8. Groups are reminded that this end-year exercise does not override the requirement to notify administrations immediately of all individual movements of vessels into and out of groups during the year by means of the form PO1.

Annex D: In-year international quota swaps and transfers

Introduction

1. The following arrangements apply to in-year international quota swaps and transfers between the UK and other member states for the stocks covered by these rules.
2. These arrangements do not apply to swaps associated with the annual agreement of Community TACs and quotas ("post-Council swaps").

Guiding principle

3. In considering international swaps, FAs will assess whether swaps to be undertaken are adjudged to be in the best interest of the UK.

Procedural arrangements

4. The following arrangements will apply to in-year international swaps:
 - a) All swaps will be negotiated with other member states by UK FAs, in consultation with the industry. However, POs will be permitted to initiate international swaps subject to these being confirmed by the respective national authorities;

Swaps initiated by FAs

- b) Where a swap is proposed by FAs, all groups will be invited to participate in the swap by contributing to the UK stocks being given up. Groups will also have the opportunity to match the swap (that is matching the terms offered by the member state concerned) where specified by FAs.
- c) Where bids do not exceed the tonnage offered, fish gained through swaps will normally be distributed amongst those groups contributing to the swap, in accordance with their bid.
- d) Where proposed contributions exceed the tonnage offered, administrations will normally take account of groups' need for the incoming stock by scaling back bids on the basis of each group's final allocation for that stock as well as the amount bid by each group. Where final allocations have not yet been issued, account may be taken of provisional allocations.
- e) Other methods of distribution may be used if FAs judge this to be in the best interests of the UK industry.
- f) FAs will write to all groups explaining the outcome and distribution of the incoming fish.

Swaps initiated by POs

- g) Where a PO informs FAs of a proposed international quota swap (IQS) or gift, FAs will satisfy themselves that the IQS/gift is in the UK general interest. If it is deemed so, FAs will then seek agreement from the other MS that they are content to proceed with the IQS/gift. If this proceeds, the PO will receive the full benefit of the swap. POs brokering swaps will be required to state which other, if any, POs will benefit from the incoming quota, on application.

- h) FAs will write to all groups informing them of completed IQSs. This communication will include details of all beneficiary POs where this is available.

General swap information

- i) Any proposals from UK groups to lease or purchase quota from groups in other member states will be subject to consideration by administrations.
- j) POs will not be permitted to gift (give away) quota to other member states. Such gifts may only be made, as an exceptional measure, by the FAs, when adjudged in the best interests of the UK and where administrations are satisfied that such fish would not normally be taken by the UK fleet.
- k) Any gifts of quota from other member states will be distributed by FAs as they see fit. Normally they will be distributed to all groups on the basis of their provisional/final allocations for the gifted stock.

Fisheries administrations

Annex E: Management and licensing of UK vessels to fish in Faroese waters

Preamble

1. The following whitefish quotas in Faroese waters are currently allocated to groups:

- cod/haddock (joint stock)
- saithe
- others
- redfish
- ling/blue ling (joint stock)
- blue whiting (from 1 January 2007).

They may change and industry will be notified if and when this occurs. The following whitefish quota in Faroese waters is **not** currently subject to sectoral management arrangements and uptake is monitored on a UK basis:

- flatfish

2. The overall management of groups with Faroes allocations will, as with domestic waters, fall to their “home” administration. The Scottish Government (Marine Scotland) – SGMS – will be responsible for licensing vessels based in Scotland while Marine Management Organisation (MMO) or Department of Agriculture and Rural Development Northern Ireland (DARD) or Welsh Assembly Government (WAG) will, where appropriate, have similar responsibility in respect of vessels based in England, Northern Ireland or Wales.

3. As with domestic stocks, however, groups will have day-to-day responsibility for the management of uptake of their Faroes allocations and individual fisheries will be closed as uptake reaches 100 per cent. However, in order to assist group management, separate Faroes whitefish and blue whiting licences will be produced by FAs (normally valid from 1 January to 31 December and issued via the relevant fishery office) and issued only to those vessels nominated by their group.

4. Of the allocated stocks, the amount which vessels will be able to catch at any given time will be a matter between the vessel and the group of which it is a member. As with domestic stocks, vessels which breach the catch limits set by their group for any trip will be accountable to the relevant group, and be subject to whatever disciplinary procedures are in place by the relevant group. Groups which overfish their Faroes quotas will, as with the arrangements in domestic waters, be subject to penalties and compensation arrangements.

5. Prior to their nominating vessels for Faroes licences, FAs will expect groups to have made an assessment of their latest uptake of quotas in order to ensure that vessels which are due to be licensed have sufficient quota(s) available to them to make an economically viable trip.

6. All Faroes licences will be issued (by MMO or SGMS as appropriate) via vessels’ port of administration.

Applications for whitefish licences

7. POs should apply to their “home” fisheries administration by **mid-November** for Faroes whitefish licences in the name of specific individual vessels to take effect from 1 January of the following quota year. The written application (either in the form of an email, fax or letter) should specify the intended area(s) of fishing (that is inner or outer ring or both) and (for a vessel’s first trip of the year only to enable registration of vessel details with the Commission/Faroes authorities) be accompanied by an (annualised) application form (copies of which will be issued on request by FAs). Thereafter, any request for changes to those vessels being licensed should be made in the same way to the relevant fisheries administration indicating the effective date of change and new vessel details.

8. FAs will aim to issue Faroes licences by mid-December to take effect from 1 January the following year. All whitefish licences (whether issued from 1 January or in-year) will normally be valid until 31 December of the relevant quota year.

Applications for blue whiting licences

9. All applications for blue whiting licences will be made to SGMS or MMO as appropriate using the appropriate fishing plan and, if necessary (for first trip), an application form. Copies of both are available on request to MMO/SGMS. Applications for Faroes blue whiting licences should be received by SGMS/MMO no later than mid-November in the preceding quota year.

Closures

10. Fisheries will be closed by **licence variation** (MMO) or by licence variation **notice of revocation** of Faroes licence (SGMS), either when administrations considered that, on the basis of the latest uptake data, a group’s allocation of a given stock has been taken or, alternatively, on written request by a group. In practice, however, because of the “no discard” policy operating in Faroes waters, exhaustion of the main whitefish quotas (i.e. cod/haddock, saithe or others) will normally mean the closure of all Faroes whitefish fisheries in view of the inevitable by-catches of these stocks when fishing for others species. **Groups’ management arrangements should, therefore, take this prospect into account.**

Faroes Access List (FAL)

11. The “third country” agreement between the EU and Faroese authorities regulates the number of EU vessels fishing in Faroese waters and, accordingly, only a limited number of UK vessels are entitled to fish there at any given time. The Faroese authorities (via the Commission) must also be notified in advance of an EU member states’ vessels licensed to fish within their waters.

12. The UK is normally allocated a maximum total of 20 places on FAL for whitefish trawlers wishing to fish either in the “inner” or “outer” rings* within Faroese waters. Subject to a minimum of one place, each group with an allocation will normally be allotted a number of places on FAL in accordance with its percentage share of the initial UK quotas of cod/haddock, saithe and Others (rounded up or down as appropriate). Group will be notified of the number of places they have on FAL when allocations are issued. Subject to availability, additional places on FAL may be acquired on a temporary basis on request to the Commission. The number of places available to the UK on FAL may vary from year to year. In such an event, the number of places allotted to individual POs may require to be adjusted to reflect any variation.

* “Inner” ring – between 12 and 21 miles fisheries limit (18 places on FAL)

“Outer” ring – outside 21 miles fisheries limit (20 places on FAL)

13. The UK is also normally allocated an additional 10 places on FAL for vessels which fish by the **long-line** method and 5 places for pelagic vessels. Places on this particular list will be issued on written request from POs.

14. All vessels require to be placed on the Faroes Access List (FAL) for whitefish (trawling or long-lining) and blue whiting before they can be licensed to enter Faroes waters. In order, therefore, for vessels to prosecute Faroes waters, POs will be required to inform their “home” administration of the names of those vessels which they would wish to be licensed from a given time or over a given period.

15. Vessels will only be removed or added to FAL at the direct request of their group in writing to FAs (at least two week’s notice of change will be required in order for the necessary changes to be made to FAL before a new licence can be issued). From time to time as necessary, groups and fishery offices may be advised of the names of the vessels currently on FAL.

16. Groups may transfer places on FAL among themselves on a temporary basis during the course of the quota year subject to obtaining the prior approval of FAs.

Monitoring and disclosure of uptake

17. FAs will continue to have overall management responsibility in respect of UK uptake of Faroese quotas. EC Council Regulation (EEC) No. 2847/93 provides that the master of a vessel is responsible for the accuracy of his landing declaration. FAs, therefore, ultimately manage the Faroese fisheries on the basis of confirmed landings, as reported in landing declarations/sales notes.

18. However, in the interests of prudent management, vessels fishing in Faroese waters will, as part of their licence conditions, be required to notify their “home” administration (via telex or fax) when they enter and exit Faroese waters. Other information which requires to be reported to FAs when a vessel enters or leaves Faroese waters is contained in licences.

Non-sector management

19. Subject to the availability of quota and places on FAL, FAs will consider licensing vessels not in membership of a PO on a case-by-case basis on written request. It is anticipated that such cases will be treated exceptionally.

Vessels wishing to target flatfish

20. Vessels in membership of groups without an allocation of Faroese quotas may apply to FAs for a (trip only) licence to target flatfish (the only unallocated stock). However, the issue of such a licence will only be considered if:

- a) The vessel’s group has temporarily acquired a place on FAL from another group, and
- b) The vessel’s group has acquired sufficient quantities of the other Faroese stocks which are likely to be taken as a by-catch (that is cod/haddock, saithe, redfish and others).

Such licences will only be issued in exceptional circumstances where FAs are satisfied that the granting of a licence will not result in the vessels concerned recording more than the quota(s) available for their trip, thus jeopardising the ability of other groups to take their quotas in full.

Changes to these arrangements

21. Changes to the above arrangements will not be effected without prior consultation with relevant groups.

Fisheries administrations

Annex F: Arrangements for the management of the UK quota of Atlanto-Scandian herring

1. Application

1.1 These arrangements will apply to the management of the UK's quota of Atlanto-Scandian herring (ASH).

1.2 Vessels will be licensed by FAs to fish against the UK quota, subject to the rules and conditions contained in this annex.

1.3 The weekly notification of catches by the UK to the European Commission, as required under EC Regulations, will be undertaken by the Scottish Government (Marine Scotland) – SGMS – on behalf of FAs. SGMS will also be responsible for liaising with the Commission on the list of UK vessels to be licensed to fish in Faroese and Norwegian waters.

2. Licensing arrangements

2.1 General

(i) Applications for ASH licences in any relevant quota year should be submitted by appropriate groups/vessel owners when so required (**but with at least two weeks' notice of sailing**) in accordance with the arrangements below.

(ii) There are three separate ASH licences, permitting vessels to fish either in EC/International waters, Norwegian waters and/or Faroese waters, with Norwegian and Faroese licences also permitting fishing in EC/International waters.

(iii) Licence requirements/conditions for individual vessels include:

- the temporary suspension of the vessel's main domestic licence while fishing for ASH
- landings only at designated ports
- reporting of arrival at, and departure from, fishing grounds
- **daily** reporting of catches **to the relevant group**, by area of catch.

2.2 It is a group's responsibility to ensure that the skippers/owners of vessels in their membership which are licensed to fish for ASH are aware of, and understand, the various conditions imposed on them by the licence requirements before they sail.

3. Norwegian and Faroese waters

(i) In accordance with agreements between the EU and Norwegian and Faroese authorities, the UK has been allocated a specified number of licences to fish in Norwegian and Faroese waters. These licences will be allocated approximately in proportion to groups' quota allocations. Their distribution, together with groups' allocations for these areas will be issued by administrations as soon as details are available at the start of the fishing year.

(ii) Member states with an allocation of ASH are required to notify to the Commission the details of those vessels which are to be licensed to fish in Norwegian and Faroese waters in order that they appear on the relevant access lists. Licences to fish in these waters can only be used by one vessel at any time but vessels may hold more than one ASH licence at any time. Accordingly, **groups which have been assigned such licences should inform SGMS (Fisheries Division – Compliance and Licensing Policy Branch, Area 1B-South, Victoria Quay, Edinburgh EH6 6QQ, Fax: 0131 244 6474) of the names of their vessels which have been selected to fish against the initial tranche of licences.**

(iii) Under the arrangements agreed with Norway and the Faroese authorities, it may be possible for a licence to be used consecutively by more than one vessel. **Any subsequent request to change the initial list, therefore, will require to be notified in writing to SGMS (see contact details above) in order to ensure that the details of the vessel “taking over” the relevant licence are placed on the appropriate access list.** Such details will require to be notified to the Commission, and confirmation received from Norway/Faroes before any “new” vessel will be licensed to fish in the relevant area(s).

Fisheries administrations

Annex G: Pelagic payback obligations looking forward

1. Under the terms of Commission Regulation (EC) No. 147/2007 of 15 February 2007 (embedded below), the UK is required to have certain quantities of its initial annual pelagic quotas of western mackerel and North Sea and west of Scotland herring) abated (also known as “pelagic payback”) by the Commission in each of the years 2007 to 2012. Payback commenced in 2007.

2. In order to meet the payback obligations over the period 2007 to 2012, certain administrative arrangements have been put in place by FAs. For 2007, pelagic payback obligations have been undertaken administratively in co-operation with the relevant vessel owners and groups. These arrangements are set out below.

3. New licence condition for individual vessels implicated in pelagic payback

“Until further notice, this licence, any entitlement arising from this licence, any subsequent licence created from the transfer or aggregation of this licence onto another or the fixed quota allocation (FQA) units associated with this licence or entitlement arising from this licence, may not be transferred to another party by the current registered holder(s) without the current holder(s) first obtaining the written authority of the relevant fisheries administration to do so.

In the case of FQA units associated with an entitlement arising from this licence, such units may not be attributed by AFL 8 form to a fish producer organisation or other sectoral management group for the purposes of quota allocation calculations by the current registered holder(s) without the current holder(s) first seeking the written authority of the relevant fisheries administration to do so”.

Control of movement of:

- vessels between groups
- FQAs
- licences/entitlements.

Fishery offices and Licensing officials have been instructed to alert quota managers in SG Marine Directorate to any potential sale, transfer or aggregation of any pelagic licence(s) (active or entitlement). Such instruction has been included in the formal checklist for fishery offices for licence/entitlement transfers.

Quota managers will also be advised of:

- any PO 1 forms received indicating change of group membership for an implicated vessel
- any AFL 8 form returns (in January 2008 and each year thereafter until payback period is over) which show pelagic units from entitlements being attributed to a group other than the group which received same units in 2007 (and so on beyond 2008).

FQA 2 and 3 forms will be monitored closely by quota managers for any proposals to transfer pelagic units from implicated licences.

Actions

Where alerts are received in any of the circumstances identified above, quota managers will make contact with the appropriate licence holder(s) and, if necessary or appropriate, potential purchaser, to establish background to proposed sale/transfer of licence/entitlement/FQA units.

Each case will be considered on its merits having regard to its particular circumstances. Options might include:

- permitting sale/transfer to proceed (provided quota managers are satisfied that payback obligations can continue to met by licence holder through other arrangements)
- refusing sale/transfer to proceed as proposed (until such time as quota managers are satisfied that payback obligations can continue to met by licence holder through other arrangements);

Relevant POs to be kept advised of developments where there are implications for their quota allocations.

Fisheries administrations

Appendix to Annex G

Copy of Commission Regulation 147/2007 was sent previously as separate email attachment.

Annex H: Arrangements to support disciplinary actions by producer organisations

Objective of facility

1. To deter PO member vessels from failing to comply with producer organisations' (PO) rules.

Scope

2. The arrangements will apply to PO members that have been the subject of disciplinary action and have been penalised by a PO for a breach of its rules, but who have not settled the penalty imposed (whether in terms of money, fish, or on some other basis) with the PO within any period specified by the PO.

Circumstances where administrations will take complementary licensing action

3. Where a PO member has, on at least one occasion, failed to meet the terms of penalties imposed on them by the PO, the PO may bring the circumstances to the attention of its managing administration. If the same member then fails to meet the terms of a second penalty, and the PO resolves as a consequence to suspend the member from its membership for a period of not less than 2 months and not more than 4 months, administrations will act to vary the licence of the member's vessel so as to transfer it to the 'non-sector'.

4. Administrations will do so having confirmed, based on information provided by the PO, that due process has been followed and the member has failed to meet the terms of two penalties imposed upon it by the PO and the member has been informed of its suspension by the PO.

5. A member will progress through the process if at any stage it failed to meet the terms of penalties imposed on them by the PO, including in relation to where it fails to meet the terms within any period specified by the PO. For example, a vessel that fails to pay fine 1 during the period specified, and then pays fine 2, but then again fails to pay fines 3, and the PO suspends it from its membership, then administrations will vary the licence to transfer the member vessel to the non-sector. On the other hand, a member will be understood to have returned to the beginning of the process if s/he has no further instances of non-payment during a period of 24 months after the last such instance (which did not result in suspension).

6. The first period of suspension will be not less than 2 months and not more than 4 months and suspensions thereafter will increase by 2 months on each subsequent occasion.

Management of vessel during period of suspension

7. Periods of suspension will not commence mid-voyage. Where a member has been suspended and temporarily placed in the non-sector*, catches during voyages that commence after the period of the suspension begins will be limited to the catch limits set for the non-sector (and landings will score against the non-sector). In the event that the vessel breaches these limits, during the period of the suspension,

* Under these temporary arrangements, the normal rules on admission to the non-sector will not be applied.

Administrations will be responsible for any enforcement action considered appropriate. The vessel will be subject to all the other conditions involved in membership of the non-sector, which will mean that it will not be able to:

- lease in quota for its sole use
- fish against an individual vessel quota amount
- acquire or relinquish FQA units.

8. Administrations will seek from the PO suspending the member quota for transfer to the non-sector pool to cover the landings that the vessel will be permitted to make while in the non-sector.

9. Appendix 1 sets out the respective roles of FAs and PO and sequence of actions under these arrangements.

Commencement

10. The facility will be available from 1 January 2011.

Fisheries administrations

Appendix 1: Roles and sequence of actions

Action on PO	Action on fisheries administration	Status of action or notes
Notify FA (quarterly) if/when vessels have infringed PO rules, action taken and outcome (as per paragraph 18.5 of quota management rules) with associated evidence.	FA notes position. NFA.	Routine
Notify FA when vessel has infringed PO rules and failed to settle sanction with associated evidence. PO to provide FA with all documentation relating to Strike 1.	FA notes position. NFA.	Strike 1
1. Notify FA when same vessel has, for a second time, infringed PO rules, failed to settle sanction, and been temporarily suspended from PO membership for a stated period of time. 2. PO to provide FA with all documentation relating to Strike 2.	1. FA seeks to verify that proper process (in accordance with PO rules) has been followed by PO in respect of strikes 1 and 2. 2. If FA satisfied, licence variation issued to vessel to change group membership from PO to non-sector.	Strike 2 and out (of PO membership temporarily)
Management while suspended		
Action on fisheries administration	Action on PO	Status of action or notes
When change in group membership agreed, FA to seek quota transfer from PO to cover vessel's permitted non-sector landings.	PO to transfer quota to non-sector.	May be necessary to protect non-sector allocations.
After completion of agreed period in non-sector		
Action on fisheries administration		
Licence variation issued to vessel to change group membership back to PO.		End of event.