



KFO Calls for Penalty Points to be Revoked

The KFO has been very active and voicing its disapproval since the publication of the S.I.125/2016 EUROPEAN UNION (COMMON FISHERIES POLICY) (POINT SYSTEM) REGULATIONS 2016 on March 8, as the Irish fishing representatives were neither consulted or informed that this would happen. The KFO's objections are based on the revised content of this S.I. which replaced S.I. 3/2014 which itself had been the subject of two successful High Court challenges in relation to various "practices and procedures."

This controversy revolves around the issue of penalty points which all Member States (MS) were obliged to introduce by January 1, 2012 with an appropriate legal framework and administrative structure. The EU has defined a list of serious infringements and the penalty points that each offence incurs; the penalty points may be apportioned to the vessel licence or master of the vessel. Repeat offences incur increasing points and can ultimately result in loss of licence.

In Ireland, the penalty point system was introduced by way of S.I. No. 3 of 2014 which caused concern to many in the fishing industry, in particular, the immediate apportioning of penalty points to a licence which would remain, even should a court find the licence holder innocent, and the role of the SFPA in deciding whether or not an offence could be classed as "serious." It was only a matter of time until this legislation would be challenged in the courts and, in fact, two separate cases were taken to the High Court where, in January this year, the legislation was declared unfit for purpose.

Minister Coveney signed off on a replacement S.I. on March 1, with a gesture towards ostensibly providing an appeal system but displayed very little real reform. In view of the circumstances leading up to the replacement S.I., industry representatives were annoyed that yet again there had been no consultation. At the request of the industry, members of the SFPA Consultative Committee (CC), the Chairperson of the CC wrote to Minister Coveney to convey their very serious concerns and pointed out the fundamental

questions of fairness, legality and procedure which implementation of the new SI posed and asked that the SI be revoked and meaningful consultations be held to enable completion of a workable replacement to serve the intended purpose of the EU regulation.

The idea of penalty points for fisheries offences, with its stated objectives of creating a level playing field and discouraging repeat offences, is not objectionable to the fishing industry and is an acknowledged requirement of the CFP. There are some areas of disquiet, such as the possibility of permanent suspension of a licence; the disproportionate impact of the same penalty points when applied to small-scale vessels versus large vessels; family-owned vessels, or those currently faced with the complex issues created by the landings obligation.

In response to concerns raised, the European Parliament's Fisheries Committee commissioned a study "Social and Economic Impact of the Penalty Point System." The study reports a wide range of approach to implementation among the 19 MS affected. Eight countries, including Ireland, are completely compliant with legislation in place and penalty points assigned. However, the report does suggest that the absence of clear benchmarks for measuring the impact of the system may account for the apparent lack of compliance by some MS. The report recommends the inclusion of industry stakeholders in any dialogue which would strengthen equality in the implementation of the penalty point system.

Arrangements Put in Place for Non-EEA Workers Permits for the Irish Fishing Industry

In November 2015 the fishing industry was stunned by a potential scandal with an exposé-style story in the UK press detailing abuse of foreign workers from outside the EU on Irish fishing vessels. At the time this crisis arose it was not possible to employ non-EEA workers under the Irish permit system; fishing was included in a list of restricted occupations for which a work permit could not be issued.

The situation prompted a rapid response from the authorities with the establishment of an inter-departmental task force led by Minister Simon Coveney, DAFM, to investigate the circumstances and come up with solutions. The task force moved with admirable speed and following a number of meetings, which included the input of fishermen's representative organisations such as KFO, issued a report in December 2015, "Report of the Government Task Force on non-EEA Workers in the Irish Fishing Fleet."

The recommendations made by the Report have now progressed, whereby a total of 500 work permits have been made available since February 15. Initially, and for a period of three months, these permits will be restricted to non-EEA nationals already working on Irish fishing vessels; at the end of that period, i.e. May 15, if fewer than 500 permits have been taken up, additional applications can be made.

Applications can only be made by the owner of a licensed vessel over 15 metres; a written contract of minimum 12-month duration must be given to the employee guaranteeing 52 weeks payment of at least the minimum wage, currently €356.84 per week, to be paid whether the vessel fishes or not. The maximum deduction an employer can make for board and lodging is €54.13 per week and the employer must also provide medical insurance and repatriation expenses. Additional expenses for the employer include, a €300 annual registration fee; a work permit fee of €250; legal fees and recruitment charges. On the part of the non-EEA worker, there is a need to abide by all existing requirements regarding visas, immigration and registration with An Garda Síochana.

The new permit system gives the fishing vessel owner an option to recruit crew from outside the EU within a legal framework. A draft contract template and explanatory note has been prepared by Eibhlin O'Sullivan, EOS Solicitors, Cork and formerly IS&WFPO, and has already been distributed to KFO members. Completed contracts and other relevant information must be forwarded to the Central Depository which can be found on the FishingNet website at:

(<http://www.fishingnet.ie/centraldepository>).

Problems with Management Plan for Western Horse Mackerel Remain Unresolved

Western Horse Mackerel is a widely distributed, migratory stock and is an important species for the European pelagic fleet with Irish vessels targeting horse mackerel during the winter months, primarily in waters to the north and west of Ireland.

A distinctive feature of the stock for the period for which we have data (since the early 1980s) is that the population tends to be dominated by infrequent, large year classes. The occurrence of these large year classes does not appear to be related to the prevailing stock size. Indeed, the two observed instances occurred when the stock size was considered to be low. The success of individual year classes is more likely due to environmental conditions during spawning and the early life stages.

An assessment model for Western Horse Mackerel was developed in the 2000s with specific features to deal with the large year classes. The assessment also makes use of the only fishery-independent data available, that being an egg count which is available every three years. It has been several years since the last major recruitment event and egg counts have been reducing since 2007 such that the current assessment indicates that the stock is at a low level (albeit above reference points) with reduced productivity. The lack of data also results in a very uncertain assessment.

A management plan was first developed by scientists in conjunction with the Pelagic AC in 2007 and was used to set the TAC between 2008 and 2010 on the basis of the trend in the egg survey. After a review however, the plan was considered to be lacking in terms of its evaluation and implementation and ICES' advice has since been based on the MSY approach. In 2014, the Pelagic AC offered to fund a new round of management plan development. This work, conducted throughout 2015, draws on the earlier work but with improved standards, more appropriate methods and consideration of alternative harvest rules. When evaluating the performance of a proposed harvest rule, it is necessary to incorporate information from the most recent assessment in terms of the current state of the stock, how certain we are of the result and the stock productivity.

The results of the evaluations show that it is necessary to assume that the occurrence of one-off large year classes will continue, if a sustainable fishery that meets precautionary criteria is to be possible in the long term. However, since only two such events have been observed, it is difficult to predict when that may occur and subsequently, all management options tested perform poorly in the short term (five years).

Results indicate that it is also necessary to incorporate a protection rule whereby the TAC is reduced more rapidly in the event that the egg count drops below a certain limit, a feature not included in the original plan. TAC stability is then dependent upon the usual trade-off between taking action at relatively high egg survey values or more severe action not initiated until the egg count is lower.

The main conclusion of the latest work is that it is not possible at this time to propose a management plan that will result in a sustainable fishery whilst meeting precautionary limits. The assessment is due to be benchmarked in 2017, during which all the input data and the assessment model itself will be reviewed. Additional data sources will also be considered. Once this exercise has been completed the updated assessment may provide an improved basis for the further development of the management plan.

Genetic Identification Project Up and Running For Herring Stock in Areas VIa/VIIbc

The longstanding issues with the discrimination of the VIaN and VIaS & VIIb,c herring stocks are well known to the industry. The distinction between these stocks is largely based on information from fisheries and the recognition of temporal and spatial differences in spawning season and grounds. However the geographical ranges and boundaries of the stocks are not accurately delineated, and herring from separate stocks are known to form mixed aggregations on common feeding grounds. The inability to confidently assign fish from commercial catches or survey estimates to their stock of origin prevents the accurate assessment of these stocks and has hampered the development of effective management. As a result, ICES had to combine the stocks for assessment and advice in 2015 and a zero catch was advised for 2016.



The EU-funded WESTHER project (2003-2006) attempted to resolve this confusion using a multidisciplinary approach (otolith and body morphometrics and meristics, internal parasites, otolith microstructure and microchemistry and genetics). However, the results of the project did not provide a clear, definite or rapid method to discriminate the stocks. The Marine Institute has continued to use morphometric methods to attempt to split the NWHAS survey estimates into stock of origin, but this method is very labour intensive, not as accurate as required, and relies on high quality samples.

Since WESTHER there have been significant advances in fisheries genetics and particularly in the ability to detect population structure and identify stocks. To determine if these advances would assist with the VIaN and VIaS & VIIb,c herring stock identification issues, a KFO supported pilot study was conducted in 2015 by the fisheries genetics group at UCD. The cutting-edge genetic techniques that were developed during the KFO/Irish Research Council-funded boarfish genetics project were applied to the original WESTHER samples, and revealed significant population structure between putative VIaN and VIaS & VIIb,c spawning samples.

This was a very promising sign that there was potential in the new genetic techniques, however in order to ensure that these differences were stable across multiple years and were still suitable for separating the stocks in current samples it was necessary to develop an updated baseline of spawning samples. Following discussions at the Pelagic AC Herring meeting in September 2015,

a project plan was developed and it was decided that it was also necessary to widen the spatial scale of the baseline samples to include other herring stocks which may be present in future mixed stock survey and fishery samples including the North Sea, Celtic Sea and Irish Sea samples. Since then there has been a significant investment put into securing funding and developing a collaborative project between UCD, where the genetic analyses will be conducted, and between the Irish, Scottish and Dutch industries and the Marine Institute and Marine Scotland, all of which have contributed to funding the new 12-month project.

The project is now underway and the DNA is currently being extracted from c. 1,300 herring from stocks around Ireland and also the North Sea. These new samples will be screened with the genetic markers developed during the pilot study to confirm the temporal stability of genetic structure and to construct a genetic baseline dataset, the results of which will be ready for the 2017 ICES benchmark assessment. In the future, commercial and survey samples will be compared with this dataset to determine which stock they originate from. Significant effort is also being directed towards further developing the new genetic techniques in order to make them faster and cheaper to use and to facilitate higher-throughput of samples so that they may also be implemented on other species that suffer from stock identification issues, including horse mackerel. Genetics are likely to play a large role in the future of fisheries science and KFO will continue to be at the forefront of this.

Setting Two TACs for Blue Whiting Very Unsatisfactory

The Irish pelagic industry was very disappointed and found it difficult to understand why the Fisheries Council meeting in December 2015 agreed to the setting of two different TACs for blue whiting, one for the EU and a separate higher TAC for Norway. The main reason for this seems to be that the Commission signed a bilateral agreement with Norway on the day of the Council, without the knowledge of the Council of Ministers, and then represented it as a *fait accompli* in the overall compromise package to Ministers. This two-tier situation is very unsatisfactory and it was brought to the attention of Fisheries Commissioner Karmenu Vella at a recent industry meeting. It is

particularly unhelpful coming when the Irish blue whiting fleet and European colleagues have attained MSC certification (see page three.) It is hoped this is a one-off arrangement for 2016 and will be resolved for future TAC allocations.

The annual blue whiting acoustic survey began on March 18 and the RV Celtic Explorer, the Marine Institute's research vessel, will participate over the coming weeks with vessels from the Netherlands, the Faroes and Norway gathering acoustic data and samples of blue whiting to provide the information necessary to estimate abundance of the stock and inform future fishing opportunities.

KFO Successful in Getting MSC Certification for Blue Whiting and Confident Mackerel MSC will be Reinstated

The Marine Stewardship Council (MSC) continues to be among the most recognisable, respected and enduring institutions in the field of seafood certification. The UK-based MSC was established jointly by WWF and Unilever in 1996 who felt a market-driven approach could exert more influence on good practice and drive change by consumer choice.

Now a global organisation, the MSC Fisheries Standard has been attained by 275 fisheries in 36 countries with a further 103 fisheries in assessment. The output from these fisheries represents almost 10 per cent of the annual global harvest of wild capture fisheries. Downstream, there are now 20,000 products with the MSC ecolabel on sale to consumers in 100 countries. Today operators in both catching and processing wild fish are increasingly making the decision to apply for MSC Certification on the basis of necessity rather than an optional extra.

The pelagic fisheries of the North-East Atlantic are of immense importance to the countries which target them; Ireland, the UK, the Netherlands, Denmark, France, Norway, Iceland and the Faroe Islands all compete for access to these fisheries. Two very important species are blue whiting and mackerel.

A combined fleet of 72 fishing vessels from the KFO, the Pelagic Freezer Trawler Association (PFA), Danish Pelagic Producers Organisation, Scottish Pelagic Sustainability Group Ltd., and Compagnie des Peches de Saint Malo, came together to demonstrate a transnational approach to exploiting the blue whiting fishery in a sustainable manner. The selective fishing methods and ability to identify blue whiting shoals ensure a focused fishery with short hauls which minimises by-catch; these factors meant the blue whiting fishery met many of the necessary criteria for MSC. Most importantly, the stocks of blue whiting have

been increasing steadily over recent years and there has been more and more catches going for human consumption. On February 11 2016, the KFO received its MSC Certification for the Northeast Atlantic Blue Whiting fishery, in conjunction with the four other organisations mentioned above. Going forward the majority of the blue whiting landed from the northern area will be from MSC Certified fisheries.

Access to markets is equally important, which incentivised the Irish Pelagic Sustainability Group (IPSG), an association of RSW vessel owners including KFO, to achieve MSC Certification for its mackerel fishery in 2009. Unfortunately, due to the arbitrary setting of its own TAC, Iceland and Faros undermined the certified status and the MSC certification was withdrawn for north east Atlantic mackerel fisheries in March 2012.

Fortunately, this was not the end of the road as IPSG maintained the schedule supporting its Seafood Environmental Management System (SEMS) and joined up with the other European pelagic groups in a similar position. In all, seven pelagic-focused associations came together under the umbrella group MINSAs to be re-assessed for MSC Certification. This process has been on-going for the past three years and is likely to be finally rewarded with re-instatement of MSC Certified Fishery status in May 2016.

Landings Obligation for Demersal Fleet Commences

The Landings Obligation (LO) moved a further step on January 1 when demersal fish became subject to the discards ban. This is a significantly more complex situation than that for the pelagic fisheries and will be extremely difficult for fishermen to work. Gear type, fisheries areas and historic landings from a reference period, all play a role in determining who is subject to the LO.

Who is covered by the Landing Obligation			
Species to be landed	Area you are operating in	Gears you are using	The landing obligation applies to you if:-
Nephrops	VI & Union Waters of Vb	Trawls, seines, pots, traps and creels	Your total recorded landings for 2013 and 2014 with these gears in this area consist of more than 30 per cent <i>Nephrops</i>
	VII	Trawls, seines, pots, traps and creels	Your total recorded landings for 2013 and 2014 with these gears in this area consist of more than 30 per cent <i>Nephrops</i>
Haddock	VIa & Union Waters of Vb	Trawls and seines	Your total recorded landings for 2013 and 2014 with these gears in this area consist of more than 10 per cent cod, haddock, whiting and saithe combined
	VIIa	Trawls and seines	Your total recorded landings for 2013 and 2014 with these gears in this area consist of more than 10 per cent cod, haddock, whiting and saithe combined
Whiting	VIIb, VIIc, VIId & VIIf-k	Trawls and seines	Your total recorded landings for 2013 and 2014 with these gears in this area consist of more than 25 per cent cod, haddock, whiting and saithe combined
Hake	VI & VII	Trawls and seines	Your total recorded landings for 2013 and 2014 with these gears in this area consist of more than 30 per cent hake
		All gill nets	You use gill nets in these areas
		All long lines	You use Long Lines in these areas
Common Sole	VIId & VIIfg (excluding VIIa; VIId and VIId)	All trammel net and gill net fisheries	You use trammel nets and gill nets in these areas

The Department of Agriculture, Food and the Marine has produced an Information Booklet listing the species and areas relevant to the Irish demersal fleet (see extract above). There is also advice on exemptions and de minimus exemptions and how landed discards must be handled.

The North Westerns Waters Member States Group is considering plans to phase in additional species in 2017, which the industry opposes. This will only compound the likelihood of quotas being inaccessible as the "choke" species effect kicks in. The economic consequences are likely to be significant for many operators.

An alternative approach advocated by the industry is the further development of avoidance and minimisation techniques supported by a range of incentives. For example, BIM trials have demonstrated how effectively separator panels in *Nephrops* fisheries have reduced unwanted catches of whiting and haddock with minimal effect on prawn catches. Likewise, increasing cod-end mesh size and/or real time closures can significantly reduce and avoid the percentage of under-size fish retained in the catches. It may be possible to gain exemption from the LO depending on the effectiveness of the minimisation technique, as has happened for the Dutch fleet using the "Belgian net" which incorporates a three metre 120mm panel ahead of the cod-end; users of this device only need to estimate their discards and record them.

Editorial

by Sean O'Donoghue

CHIEF EXECUTIVE, KFO



The current controversy sparked off by the signing of S.I. 125/2016 by Minister Coveney is extremely serious. It is offensive to the fishing industry on two levels. Firstly, it was done without any consultation, or even notice of its publication, which is completely unacceptable, and secondly the content of this S.I. is, if anything, more flawed than S.I. 3/2014 which it replaces.

Since S.I. 125/2016 was issued, KFO has explored all avenues to have it revoked. The SFPA Consultative Committee has written on our behalf to the Minister requesting it be rescinded; we have used political and media representatives to support our efforts wherever possible and co-operated with our colleagues in other fishing organisations to present a united front on this critical issue.

The findings of the two High Court cases which precipitated this crisis highlighted the basic flaws in the original legislation. There is no other sector in Ireland which would tolerate, or be expected to tolerate, a system where the opinion of a state agency i.e. the SFPA, is enough to convict a citizen of a serious infringement and attribute penalty points to the licence which provides his living, and furthermore, if that citizen is subsequently proven innocent in a Court those penalty points will not be removed. The right of the same citizen to appeal the penalty point sentence beyond High Court level was not an option either. The attempt to patch-up this flawed legislation with another S.I. signed by Minister Coveney on March 1 did nothing to

improve the situation as it specified that the penalty points from the original S.I. were still extant, despite the High Court rulings, and penalty points attributed to a licence could not be removed if the courts found no offence had occurred.

The fishing industry does not have a problem with the penalty points system per se but it must be implemented in a manner which is at least coherent with common law and it must be done in consultation with the industry which is affected. We hope Minister Coveney can see his way to address our very genuine concerns and are heartened by his comments in the Dáil when replying to a question on this issue, "I plan to bring forward primary legislation to give a sound legal basis to a scheme that implements the EU points system for licence holders. In that context, to provide the necessary consultation, I will commence a Regulatory Impact Analysis on this aspect of the new Bill in the near future." The fishing industry is available to contribute to such a consultation when required.

Following commitments made at the December Council, we are disappointed that as yet there is no progress on the quota for NW Herring in Area VIaN and VIaS. The Commission referred the issue back to ICES at the beginning of March and, realistically, it will probably be June before this is

resolved. However, we are pleased that the project, which mirrors the work funded by KFO on boarfish genetics, has now begun at UCD to define the herring stocks using genetic tools. KFO believes these techniques will make an enormous difference to the speedy investigation and resolution of stock-related issues going forward.

The very important tri-annual international mackerel/horse mackerel egg survey is now underway and, an Irish vessel will take part probably doing the final August survey west of Ireland and Scotland. Effective management of this species, which is a vital element of our pelagic fisheries, is dependent on having the most accurate information on all stages of its life-cycle so every effort is made by KFO to support this work.

The Landing Obligation has now ramped up for Ireland with our whitefish vessels being subject to landing a range of demersal species in Areas V, VI and VII. This will be a nightmare for those trying to work their way through the complex details of what must be landed and where exemptions are made, but it is only the tip of the iceberg this year. The North Western Waters Member State Group would like to extend the list of species for 2017 which will only exacerbate the existing difficult situation. The only sensible option is to introduce avoidance and minimisation techniques accompanied by incentives. Already there are good examples of how modern technology can increase the selectivity of gear, which in turn will drive quality and economic return.

The absurd situation of the two-tiered TAC for blue whiting whereby Norway has a different TAC to the EU is still in place. However, representatives of the EU pelagic industry, including Ireland, had a meeting with Commissioner Vella in February. Coming from an island background himself, Commissioner Vella has a more pragmatic outlook than his predecessor and we are hopeful that this issue will be resolved for future years.

Good news for the blue whiting fishery, which was awarded MSC certification in February last. This was a transnational and co-operative effort which was looked on very favourably by the MSC. The Northeast Atlantic pelagic fishing organisations, including KFO, who brought their fishery forward for certification, were able to demonstrate good practice at every level. Likewise, our Irish Pelagic Sustainability Group which lost its mackerel MSC certification as a result of the Icelandic and Faroese actions, persevered with their Environmental Management System over recent years and is expected to have MSC certification reinstated in the very near future.

The formation of the new government over the next couple of weeks provides an opportunity to get many of the serious issues facing our fishing industry included in the Programme for Government. KFO will be actively pursuing these with the new Minister.

Important Dates April - June 2016

Date	Meeting	Venue
April 11-12	Fisheries Council	Luxembourg
April 14-15	Workshop on Access to Quota Member States & ACs	Edinburgh
April 14-15	Coastal States WG on Allocation Criteria	The Hague
April 19-20	Long Distance Advisory Council	Brussels
April 21	Pelagic Advisory Council (WG I, II and ExCom)	The Hague
April 22	Whitefish Quota Management Meeting	Dublin
April 27	Industry/Science Partnership Meeting	Marine Institute
May 18	EMFF Operational Programme Monitoring Committee	Clonakilty
May 20	KFO AGM	Killybegs
June 8	Markets Advisory Council	Brussels
June 13-15	ICES Advice Drafting Group Celtic Sea stocks	Copenhagen
June 17	EAPO General Assembly	Vigo
June 27-28	Fisheries Council	Luxembourg
June 30	ICES Advice issued Celtic Sea and North Sea fish stocks	Copenhagen
June 30 - July 1	SeaFest	Galway

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