



## Fisheries Negotiations Severely Hampered by Brexit Uncertainty

### Unprecedented backdrop for annual EU fisheries council talks

EU December Council fishery negotiations have always posed challenges for the European fishing fleets but never in the history of the Common Fisheries Policy has there been anything resembling the current impasse brought about by the withdrawal of the United Kingdom from the European Union. The problem of disentangling a country as prominent as the UK from a block as complex as the EU poses many problems – legal, financial, social and political; in reality, many of the negotiated issues were quite straightforward but fisheries has remained very difficult to solve.

The task of agreeing annual quotas and fishing opportunities lies with the Council of Fisheries Ministers at this time of year and often proves difficult in the face of the many regulatory demands and stock issues. This year it seemed impossible to achieve any level of certainty for the EU fishing fleets faced with the obstacles created by Brexit. It appeared that the only option to avoid a complete close down for the fleets, which have traditionally fished in waters which are controlled by the UK, is a roll-over of 2020 arrangements for the first quarter of 2021. Whether or not access to UK waters will be part of this roll over arrangement remains to be resolved in the Brexit trade negotiations which at this point are still ongoing.

Simply dividing the annual TAC and Quota into four quarters was not an option. Seasonal fisheries such as mackerel, horse mackerel and

blue whiting are predominantly worked in the first quarter of the year so instructing fishermen that they can only catch 60 percent of their mackerel and 40 percent of their Horse Mackerel and blue whiting of their allocations during 'peak season', is neither credible nor realistic. Similarly the allocation of 25 percent of Porcupine *nephrops* in the first three months was totally inadequate and would allow only one months fishing. Additionally, there are other complex strands to the negotiations around shared stocks of which there are 119 out of 146 divided with the UK. This will require a bilateral with the UK and also a trilateral between the EU, Norway and the UK as well as a bilateral between EU and Norway. None of these negotiations have happened due the protracted Brexit backdrop.

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### IRISH FISH QUOTAS, 1 January - 31 March 2021

#### PELAGIC QUOTAS

2021 Provisional Quotas for Quarter 1 have been set at 25% of the corresponding 2020 quota in every case except as shown in the three footnotes below.

SPECIES	ICES AREA	Provisional 3 month Quota (1 Jan - 31 Mar 2021)
Mackerel <sup>1</sup>	6, 7, 8, 5b, 2a, 12, 14	50,734
Horse mackerel <sup>2</sup>	2-4-6-7-8-5b, 12, 14	11,521
Horse mackerel	4b, 4c, 7d	84
Blue whiting <sup>3</sup>	1-8, 12, 14	25,090
Herring	1, 2	759
Herring	5b, 6b, 6aN	132
Herring	6aS, 7b, 7c	309
Herring	7a	525
Herring	7g, 7h, 7j, 7k	188
Northern albacore	Atlantic Ocean	3,141
Greater silver smelt	3a, 4	2
Greater silver smelt	5, 6, 7	66
Boarfish	6, 7, 8	3,309
<b>Totals</b>		<b>95,860</b>

Footnotes  
 1: Provisional mackerel quota is 65% of 2020  
 2: Provisional horse mackerel quota is 65% of 2020  
 3: Provisional blue whiting quota is 65% of 2020

#### DEMERSAL QUOTAS AREA VI WHITEFISH STOCKS

2021 Provisional Quotas for Quarter 1 have been set at 25% of the corresponding 2020 quota.

SPECIES	ICES AREA	Provisional 3 month Quota (1 Jan - 31 Mar 2021)
Cod	6a, 5b	71
Cod	6b, 5b	1
Megrim	5b, 6, 12, 14	191
Anglerfish	6, 5b, 12, 14	199
Haddock	5b, 6a	163
Haddock	6b	206
Whiting	6, 5b, 12, 14	68
Plaice	6, 5b, 12, 14	65
Pollack	6, 5b, 12, 14	9
Saithe	6, 5b, 12, 14	100
Common sole	6, 5b, 12, 14	12
Norway lobster	6, 5b	54
<b>Totals</b>		<b>1,139</b>



(Continued from page one)

We also have a major issue around the 'Hague Preferences' which have routinely seen the UK and ourselves, secure an additional increase in volume in key stocks. As the UK will no longer form part of the EU's TACs and Quotas system after December 31, it is critical that Ireland's Hague Preferences are copper-fastened and that the Hague Agreement of 1976 - particularly Annex VII - continues to be fully honoured (see further detail "Hague Preferences" page three).

This year's Fisheries Council has now concluded. Once again a completely unprecedented event in that none of the industry representatives were able to attend in person. The task facing the Irish delegation led by Minister McConalogue and his senior Department of the Marine officials was as difficult as could be imagined but they appear to have achieved as good an outcome as possible for the Irish fishing industry. The 2020 TAC and Quota has been rolled over for Quarter 1 of 2021 on a simple division of 25 percent of the annual total with the exception of some key pelagic species.

The pattern of targeting pelagic species in the early months of the year has been accommodated with mackerel being allowed a provisional quota of 65 percent of 2020 and a TAC reduction of 8 percent, blue whiting has a provisional quota of 65 percent of 2020 and a TAC reduction of 20 percent while Horse Mackerel has a provisional quota equal to 65 percent of their 2020 Irish quota and a TAC reduction of 3 percent. (See Table Pelagic Quotas page one.) Most importantly, there is a commitment from the Council that these arrangements will be revisited in January to ensure the outstanding issues which would normally be dealt with by now are resolved, including the re-alignment which will be required post-Brexit.

Deepwater quotas will also see a provisional quota of 25 percent of 2020 quota. There is a steady decline in available quota for these stocks, but Ireland does not have a direct interest in them and their value remains their availability for "swapping" regarding other species.

This has been an extraordinary Council where our input was confined to virtual meetings so our very sincere thanks to Minister McConalogue and his team, BIM, the Marine Institute and to all the officials for their efforts before and during this Council and for fully engaging with the industry in addressing our concerns.

## DEMERSAL QUOTAS AREA VII WHITEFISH STOCKS

2021 Provisional Quotas for Quarter 1 have been set at 25% of the corresponding 2020 quota.

SPECIES	ICES AREA	Provisional 3 month Quota (1 Jan - 31 Mar 2021)
Cod	7a	43
Cod	7b, 7c, 7e-k, 8, 9, 10	115
Megrim	7	775
Anglerfish	7	669
Haddock	7b-k, 8, 9, 10	603
Haddock	7a	342
Whiting	7a	104
Whiting	7b-k	1,018
Plaice	7a	361
Plaice	7b, 7c	15
Plaice	7f, 7g	64
Plaice	7h, 7j, 7k	8
Pollack	7	232
Saithe	7, 8, 9, 10, CECAF 3411	373
Common sole	7a	19
Common sole	7b, 7c	36
Common sole	7f, 7g	13
Common sole	7h, 7j, 7k	37
Norway lobster	7	1,550
Norway Lobster	Functional Unit 16	239
<b>Totals</b>		<b>6,377</b>

## DEMERSAL QUOTAS AREA VI, VII AND OTHER WHITEFISH STOCKS

2021 Provisional Quotas for Quarter 1 have been set at 25% of the corresponding 2020 quota.

SPECIES	ICES AREA	Provisional 3 month Quota (1 Jan - 31 Mar 2021)
Cod	Nor 1, 2	81
Hake	6, 7, 5b, 12, 14	873
Redfish	5, 12, 14 (shallow)	0
Redfish	5, 12, 14 (deep)	0
Ling	6, 7, 8, 9, 10, 12, 14	225
Blue Ling	2, 4	1
Blue Ling	5b, 6, 7	8
Tusk	5, 6, 7	17
Greenland halibut	2a, 4, 5b, 6	4
Skates and rays	6a, 6b, 7a-c, 7e-k	332
Undulate Ray	7de	7
Spur dogfish	1, 5, 6, 7, 8, 12, 14	13
<b>Totals</b>		<b>1,561</b>

## DEMERSAL QUOTAS DEEPWATER STOCKS

2021 Provisional Quotas for Quarter 1 have been set at 25% of the corresponding 2020 quota.

SPECIES	ICES AREA	Provisional 3 month Quota (1 Jan - 31 Mar 2021)
Black scabbardfish	5, 6, 7, 12	18
Roundnose grenadier	5b, 6, 7	42
Roundnose grenadier	8, 9, 10, 12, 14	1
Orange roughy	6	0
Orange roughy	7	0
Orange roughy	1,2,3,4,5,8,9,10,11,12,14	0
Red seabream	6, 7, 8	1
Alfonsinos	3,4,5,6,7,8,9,10,12,14	2
Forkbeards		0
Deep-sea sharks	5, 6, 7, 8, 9	0
Deep-sea sharks	10	0
<b>Totals</b>		<b>64</b>

# Setting Out The Facts On the Role of Hague Preferences and Jurisdictional Losses in the Context of Brexit Negotiations

The sharing of the TACs among the EU countries in the form of national quotas is based on the principle of Relative Stability which is one of the oldest and most important concepts of the Common Fisheries Policy. First introduced in the 1983 sharing agreement, the principle of Relative Stability sets the allocation of fishing opportunities in percentage terms among EU member states.

The principle of Relative Stability is derived according to a number of factors such as (i) fair distribution of catches with regard to traditional fishing activities in the period 1973 to 1978, (ii) the special needs of regions where the populations are particularly dependent upon on fishing activities and their allied industries which became known as Hague Preferences, and (iii) the loss of catch potential in third countries.

## The Hague Preferences

The Hague Preferences define for the United Kingdom along with Ireland and originally, Denmark on behalf of Greenland, and France on behalf of St Pierre and Miquelon, minimal levels of national quotas for specified stocks of fish. Hague Preferences are so called because they have their origin in Annex VII of Council Resolution of November 3, 1976 – the “Hague Resolution.” These were agreed by the Heads of Government on October 29, 1976.

Annex VII of the Hague Resolution, particularly paragraphs three and four, are key to the genesis of the Hague Preferences.

“Having regard to the economic relationships which characterise fishing activity in Ireland, the Council declares its intention so to apply the provisions (of the Common Fisheries Policy, as further determined by the Act of Accession, and adapted to take account of the extension of waters to 200 miles, as to secure the continued and progressive development of the Irish fishing industry on the basis of the Irish Government’s Fisheries Development Programme for the development of coastal fisheries.”

“The Council furthermore recognises that there

are other regions in the Community, *inter alia* those referred to in the Commission’s proposal to the Council where the local communities are particularly dependent upon fishing and the industries allied thereto. The Council therefore agrees that in applying the Common Fisheries Policy, account should also be taken of the vital needs of these fishing Communities.

The system of Hague Preferences was created to accommodate the last of these criteria. For Ireland, the northern part of the United Kingdom and Greenland, the “special needs” of the local populations were considered as being represented by quantities of fish landed from certain stocks of importance to the populations and tonnage values. These quantities are included in Annex VII of the Hague Resolution.

## Jurisdictional Losses

Jurisdictional Losses are the result of potential loss of catches in third country waters when the limits were extended to 200 miles in 1976, and were provided for in the Hague Resolution of 1976. These losses are one of the three criteria in establishing the relative stability keys of 1983.

After the UK joined the European Union, it was compensated for potential losses of fishing opportunities in third country waters due to the extension of Exclusive Economic Zones (EEZ) to 200 miles in 1976. This amounted to almost a 90,000 tonnes (26 percent) increase in fishing opportunities covering seven species, added to the UK historical catches in establishing its final percentage share out, known as relative stability. These additional opportunities were duly taken out of the share of other member states.

## BREXIT – Going to the Wire

**Almost four and half years since the United Kingdom voted to leave the European Union there is still no firm agreement and it seems now all hinges on fisheries. While the UK can use the iconic imagery of an island of hardy fishermen, which is not reflective of an urban society of nearly 67 million people, Ireland must face a possible decimation of its very important coastal employer where the potential loss of 6,000 out of the 16,000 jobs really can make a huge difference.**

The very basic, but not unreasonable, requirement of the EU that access to the EU free market by the UK would be matched by access of European fishing vessels to their traditional fishing grounds within the UK’s EEZ, is still a seemingly insurmountable problem for the UK.

While all EU countries which fish in UK waters will be negatively affected by any form of Brexit, Ireland will suffer most acutely as much of its most lucrative fishing takes place in UK waters; of Ireland’s most valuable catches, mackerel and *Nephrops*, 60 percent and 40 percent respectively, are caught in UK waters. The Irish seafood industry is valued at €1.22billion and employs around 16,000 people predominantly in rural, coastal areas. In Killybegs the seafood sector accounts for 82 percent of economic activity, with

Ros a’ Mhíl and Castletownbere coming in at 92 percent and 86 percent respectively. The loss of landings from the UK traditional fishing areas would be catastrophic for these major fishing ports and others ports and Irish fleets confined to their own EEZ will have to share a limited resource with similarly displaced operators from other EU countries.

At an international level the negotiating relationships, bi-lateral and Coastal States agreements, built up over decades are in jeopardy and, at best, will require considerable review. The management of stocks and their continued sustainability is highly dependent on the network of cooperation built into these agreements and may be undermined in the event of a “No-Deal” Brexit.

The fall-out from a “No-Deal” scenario is not limited to economic issues. Enforcement of the UK EEZ borders would be a mammoth task; Ireland alone has an almost 3,000Km boundary, which extends westward into the North Atlantic. The risk of vessels displaced from their traditional fishing grounds taking the law into their own hands is very real and could end disastrously on the high seas. Such events are not unknown in the fishing industry and must be considered during negotiations to avoid the inevitable chaos.

## Are Environmental Issues Opportunities or Threats for the Fishing Industry?

Climate change is probably the most apparent threat for the fishing industry and covers a wide range of issues from weather instability to development of new fish species in our waters. Every aspect of life will be affected to a greater or lesser extent over the next 50 years by climate change but industries such as fishing will be exposed to change to a far greater extent than many.

Much of the effect will be due to the adaptation measures which all countries need to put in place and top of that list is reducing greenhouse gases. KFO has already been a partner in the EU project EfficientShip which sought to convert waste heat from engine exhaust gases to electricity and there will be many similar efforts in the coming years. The Irish fishing industry has always been noted for its innovative approach which should stand it in good stead when it comes to finding new ways to generate power.

There is growing demand from the environmental lobby to eliminate fuel subsidies for the fishing industry. It makes sense to improve boats to make them more efficient and eventually need less fuel but a drastic reduction in fuel subsidies to this sector would have the opposite effect. The downward economic effect would immediately impact investment which would have the knock-on effect of keeping older, higher fuel consumption boats operating. Support for engine improvement and alternative fuels would be a more realistic way forward.

Carbon footprint is the gauge which all enterprises will be measured against. KFO has engaged with a project based in National University Galway, Neptunus, which can help fishing vessels measure their carbon footprint. This provides a good baseline to develop improvements if necessary. Contact Norah Parke, KFO office for more details of this completely confidential process.

Ireland sees wind power as a very good alternative to fossil fuel power generation but there appears to be a strong lobby to develop wind power at sea. It is essential that the fishing industry engages with this development and ensures windfarm installations do not become a threat to fishing grounds and the industry’s access to them.

At fisheries science level there is a growing interest in the effects of climate change on fish distribution. The location of fish stocks can be predicted using temperature related data, such as salinity, over several years.

There is also evidence regarding the changes in mackerel migrations which is linked to sea temperature changes and there may be many more opportunities available as species adapt to new ranges and areas.

While the fish distributions may be a positive for the fishing industry, the rapid expansion of Marine Protected Areas will pose a greater problem. Ireland is already behind its obligations in this regard and plans to catch up over the next ten years with the aim of having 30 percent of its waters designated as MPAs by 2030. Some of these will be located offshore but while the impact on the general public will be slight, they may create significant issues for offshore fishing operations.



# Editorial



by Sean O'Donoghue

CHIEF EXECUTIVE, KFO



2020 is proving to be an *annus horribilis* for the fishing industry. Exactly 12 months ago, we referred to the 'metaphorical calm before the storm' against which last year's Council outcome was delivered. That storm, in the form of Brexit, has still not passed. While we remain hopeful that a deal will be reached, we believe that setting three-month quotas based on last year, for the first quarter of next year, will cause problems for a number of species namely mackerel, Horse Mackerel, blue whiting and Porcupine *nephrops*.

After almost four and a half years of Brexit negotiations we are within a hairsbreadth of concluding a deal but unnecessary wrangling over sovereignty could leave the entire future of Ireland and, to a lesser extent, the EU looking very bleak. Nobody has argued that the UK has full sovereignty over its waters as an independent Coastal State but that does not mean it has full sovereignty over the straddling stocks in its waters. This is covered under international law under UNCLOS and the Stradling Stocks Agreement. The UK, as a signatory to these Agreements, is duty bound as is the EU to abide by the requirements in these agreements. To put it in perspective both the EU and the UK have to consult on 119 out of the 146 TACs and quotas stocks to ensure they are managed in a sustainable manner.

This year's most important Fisheries Council has concluded with a compromise solution which was needed because of the on-going Brexit stand-off. 2020 TAC and Quota is to be rolled over for the first quarter of 2021 (January to March). For most stocks this will mean 25 percent of the 2020 quota will be available (see Quota Tables pages one and two.) Seasonal fisheries such as mackerel, Horse Mackerel and blue whiting are predominantly worked in the first quarter of the year so instructing fishermen that they can only catch 65 percent of their 2020 allocations of mackerel, Horse Mackerel and blue whiting during 'peak season,' poses problems particularly for mackerel. Hopefully, early January will see sense prevail and the 2021 TAC and Quota negotiations can be resumed as normal.

I am pleased the 'Hague Preferences' which secure an additional increase in volume in key stocks have been included in the provisional three months quotas but I fear there is a big battle down the road. It is critical that Ireland's Hague Preferences are copper-fastened in the upcoming yearly TACs and quotas discussions and that the Hague Agreement of 1976 - particularly Annex VII - continues to be fully honoured.

There are other complex strands to the negotiations around shared stocks of which there are 119 out of 146 divided with the UK. This will require a bilateral with the UK and a trilateral between the EU, Norway, and the UK as well as a bilateral between EU and Norway. None of these negotiations have happened due to the protracted Brexit backdrop.

In this regard these negotiations are extremely important as the ongoing situation regarding some third countries continuing to fish in a reckless manner is having a serious knock-on effect on those who do abide by the rules. The European pelagic fishing organisations have invested considerable financial and manpower resources into certification of their catch such as Marine Stewardship Council (MSC Certification) to have it lost due to countries which choose to do a quota-grab and undermine the certification process. There must be pressure brought to bear on these countries to desist from this practice.

We cannot conclude this year without mentioning the devastating effect COVID-19 has had on our country. The fishing industry has been hit very badly with collapsing supply chains feeding back to price collapse for many species. The domestic market for fish and fish products picked up some of the slack but could not possibly replace the export of live shellfish to China or top-grade prawns to Italy.

If Brexit were not the main issue for the Irish fishing industry, there is no doubt that climate change and the mitigation measures it has generated would be a major item to consider. This is a double-edged sword as it will have consequences for the fishing industry, as yet unknown, regarding the damage warming seas will have on our traditional fisheries and at the same time fishing will be facing enormous challenges regarding reducing greenhouse gases. The general public will happily change to electric cars, but this is not an option for a fishing boat. The technology to provide "clean" engines for large fishing vessels has quite a distance to go before there is an economic alternative to current engines. However, the fishing industry is nothing if not resilient and inventive and will continue to find ways to make the most of what happens. It makes sense that the new EMFAF adequately supports these activities.

I must take this opportunity to thank Minister McConalogue and his team for their support at this year's negotiations and in particular the recent lengthy Fisheries Council. It was the first time we could only support by virtual means from the side-line. Their efforts under extraordinary circumstances were exemplary and much appreciated. Similarly, we are indebted to the staff at the Marine Institute and BIM for their continued input. This year saw our Chairman, Michael Cavanagh resign, and we want to thank him for his work on behalf of KFO. Michael has been replaced by Ciaran Doherty and we wish him well in this role for the coming years. Finally, on behalf of all the KFO staff I would like to wish all our members a very happy Christmas and prosperous fishing in 2021 which is both Covid and Brexit free. I look forward to continuing to work with you to address both the challenges and opportunities of the year ahead.