

Marine Scotland

Consultation on the Allocation
of Scottish Fish Quotas

TABLE OF CONTENTS

Chapter	Page
Summary	3
1: Introduction	7
2: The Scottish Government's objectives.	10
3: The status quo.	15
4. Improvements to the status quo.	21
5. Options for new bases and systems for quota allocation.	29
6. Transition to new systems.	35
7. Quota allocation and management for inshore (10 metres and under) fishing	37
Annexes	
A: Scottish Government Consultation Process	40
B: Consultation Response Form	42
C: Overview of recent economic performance of Scottish fishing fleets	47
D: Summary of 2013 FQA holdings on Scottish licences by category of holder	52

Summary

What the consultation is about

This consultation is about how the Scottish Government should allocate the fish quota that is made available to Scotland. The Government is holding a consultation now because fishermen have raised concerns about the present system of allocation.

The Government believes that quotas must be managed in the common interest, and wishes to encourage quotas to be held by those who can fish them. We want through this consultation to consider if the system needs to change to better pursue these aims and the Government's wider policy objectives.

There are essentially three options:

- Keep the status quo;
- Make changes to the current system to try to achieve more of the Government's policy objectives; or,
- Move to a new system.

The consultation is about fish quota for vessels that are in the membership of a Fish Producer Organisation (PO) and vessels of 10 metres and under (10mu) that are not.

At least while the consultation continues, there will be a moratorium on the permanent transfer of FQA units from Scottish to non-Scottish fishing licences. **The moratorium has no effect on in year leasing of quota: this can continue as normal.**

The Scottish Government's policy objectives

The Scottish Government's principal policy objective is to enable the fish catching sector and associated onshore enterprises to make an increasing contribution to Scotland's sustainable economic growth, in a way that reduces inequalities and disparities between the regions of Scotland. More specifically, the Government's aims are to:

- Ensure that Scottish fishing communities retain their fishing rights, now and in the future, and that fishing rights remain a Scottish national asset;
- Promote a shared approach where all concerned are involved in managing Scottish quotas;
- Encourage quotas to be held by those who can fish them, and to prevent them from becoming a speculative asset;
- Provide a stable regulatory environment for the Scottish fishing fleet, for those investing in its future, and for fishing communities; and,
- Encourage the growth of businesses and the regeneration of the fleet, and to keep down the cost of quotas.

The Government is focussed in particular in this consultation on how it might be possible to sustain the role of smaller family and local fish catching businesses in the Scottish industry.

The consultation considers the status quo, improvements to it and also new bases and systems of quota allocation, and assesses the extent to which different options might pursue the Government's objectives effectively.

The status quo

The present system of quota allocation is based on the Fixed Quota Allocation (FQA) system, which has applied in Scotland and across the UK since 1999. In 1999, allocations to licences were determined based on catches recorded between 1994-1996. The FQA system and the UK Fisheries Administrations allowed for transfers of allocation units between licences, and there have been large movements of units since 1999, including when vessels were decommissioned in the last decade.

The main argument for retaining the status quo is that the *fixed* nature of allocations has provided a stable and resilient system through which the fishing industry has been able to develop and adapt during fluctuating economic and biological conditions. It is also argued that the FQA system has allowed family businesses, POs and community organisations, including local authorities, to build up holdings of quota, and thus support the success of fishing businesses and communities.

Improvements to the status quo

It is possible that the Government's objectives could be pursued more effectively by making improvements to the status quo system.

The Government considers that there are changes that could be made to improve the FQA system. These include:

- Granting "stewardship rights" to holders of FQA units on Scottish licences. Stewardship rights would offer FQA holders greater certainty than they have now by assuring access each year to a defined portion of Scottish fish quotas for a set number of years into the future, which it is proposed be 7 years. Stewardship rights would however also maintain the ability of Government to balance social and economic objectives, by reserving its right to recall Scottish FQAs if it considers that the quota system is not working as intended to provide social and economic benefit;
- Building on the increased transparency offered by the new FQA register, the Scottish Government could take steps to ensure that quota allocations on Scottish licences are held only by individuals and organisations that have a contemporary and positive link to fishing; and,
- Changes could be made to the FQA system to make it easier for fishermen to gain access to FQA units, either by establishing a "new entrants quota fund" or by regulating the ways in which FQA units may be transferred, so as to make available smaller "bundles" of units, which are more likely to be affordable for new businesses.

Options for new bases and systems of allocation

The Government also invites discussion of whether a new basis or system of quota allocation is necessary to pursue its policy objectives effectively.

By including consideration of this possibility the Government is seeking to establish what views there are *in general* about the need for such reform. If, after considering responses to the consultation, the Government decides that a new basis or system is necessary, there will

be a further period of consultation to determine the exact methods by which quotas would be allocated in future.

There are three broad options. Two involve new bases for allocation and a third is about moving to a new system. The options for new bases are:

- Re-basing of FQAs on a more recent reference period. Fixed Quota Allocations would be based on catches recorded in a reference period more recent than 1994-1996; or,
- Basing of allocations on a rolling reference period. Allocations could be based on catches recorded in a number of years immediately preceding the allocation year.

Re-basing allocations to a more recent reference period would result in a larger proportion of Scottish vessels being allocated FQAs that more closely matched their share of recent fishing activity, thus reducing the need for them to lease in additional quota. This change could achieve one of the Government's important policy objectives, which is to see quota in the hands of active fishermen.

A rolling reference period could achieve this improvement too and also make it easier for new businesses to build up a quota allocation, which would be generated over a number of years by their own fishing activity, rather than – as is the case now - by having to acquire allocation units. New businesses would probably still have to lease in quota at first, but would then build up an allocation. A rolling reference period might therefore undermine substantially the basis for trade in quota allocations.

To avoid undermining positive features of the status quo, such as community quota schemes, it would be possible to undertake re-allocation on a selective basis, which might exclude these holdings from a re-allocation process. It would also be possible to include some quota stocks in a re-allocation exercise, but exclude others, where it might be considered that the status quo system was pursuing the Government's objectives effectively. One could, for example, deal with whitefish, *Nephrops* and / or pelagic stocks in different ways

There is also a third option, to move to:

- A new system of collective allocation and management of fish quota. It would be possible to move to a wholly different, collective, system of allocation and management. Fish quotas could be controlled directly by management organisations that would be agents of the Government. These agents might be public bodies, or reformed POs. A primary objective of the new system would be to manage quotas to stimulate sustainable economic development in fishing communities, but it would not be permitted to assign individual allocations to licences and swaps between management organisations would be controlled nationally.

Moving to a wholly new system of collective allocation and management of quota provides the opportunity to 'go back to the drawing board' and design a fresh approach to distributing quota, explicitly grounded in all five objectives of the Government outlined at page 3. There are clear attractions in the idea of being able to develop and shape – through careful, measured and full engagement with the fishing industry – such a 'fresh start'. It would also require a strong commitment to and belief in the idea that such fundamental change will ultimately deliver broader benefits for the long term, despite the prospect of disruption in the short term.

Transition to new systems

If the Government decides to implement improvements to the present FQA system, but keep FQAs as the essential basis for allocations, it is proposed that changes could first come into effect for the 2016 quota allocation year.

If instead the Government decides to allocate quotas on a new basis or through a new system it is proposed that there be a 7 year notice period so that changes could first come into effect in 2021. Until then, the Scottish Government would continue with its present allocation policy.

Subject to agreement with the UK Fisheries Administrations, it would also be planned to lift the present moratorium on transfers of FQA units from Scottish licences when the modified or new system comes into effect, in 2016 or 2021.

Quota allocation and management for inshore (10 metres and under) fishing

The position of 10mu vessels not in membership of a PO is considered separately. This is because fishing by these vessels has been subject since 1999 to a different regime, which does not involve individual allocations or FQAs. Catches of quota stocks taken by these vessels are managed in general through a combination of national quota pools and periodic catch limits enforced through vessel licences.

The consultation considers whether improvements can be made to the system of 10mu quota management. In particular, consideration is given to the option of developing more local quota pools, which might also involve a more prominent management role for Inshore Fisheries Groups (IFGs). The extent to which the 10mu group could be integrated more closely with POs is also considered.

It is envisaged that IFGs and the Inshore Fisheries Management and Conservation (IFMAC) group will be involved in the development of any change proposals for 10mu quota allocation and management.

Responses to the consultation

This document includes a number of specific consultation questions in relation to which the Government seeks views. Annex A describes the Scottish Government Consultation Process. Annex B is the Consultation Response Form.

We are inviting responses to the consultation by 17 October 2014. Please send your response to:

QM-ConsultationonScottishQuotas@scotland.gsi.gov.uk;

or,

Scottish Government quota consultation
Area 1-B (South)
Victoria Quay
Edinburgh
EH6 6QQ

Chapter 1: Introduction

1.1 This chapter explains what this consultation is about and why the Government is having a consultation.

What the consultation is about

1.2 This consultation is about how the Scottish Government should allocate the fish quota that is made available to Scotland, either as an independent country or as part of the UK.

Chapter 1 is the introduction. It explains what the consultation is about and why the Government is having a consultation;

Chapter 2 explains the Scottish Government's policy objectives in relation to the allocation of fish quotas;

Chapter 3 describes the system of allocating fish quotas that exists now and asks whether it should be retained;

Chapter 4 describes changes that could be made to the existing system that have potential to pursue the Government's objectives more effectively;

Chapter 5 describes alternative methods by which fish quotas could be allocated, and invites views about whether establishing a new basis or system for the allocation of fish quotas might pursue the Government's objectives more effectively than either the status quo or an improved version of it;

Chapter 6 is about how the Scottish Government would propose to manage the transition to new systems of fish quota allocation, including with respect to periods of notice that might be offered to licensees and persons that hold fixed quota allocation (FQA) units under the present arrangements; and,

Chapter 7 is about quota allocation and management for inshore (10 metres and under) fishing.

Chapters 3, 4 and 5 consider in particular whether and to what extent the different options described there might pursue effectively the policy objectives described in chapter 2.

1.3 Decisions about the allocation of fish quota to Scottish fishing vessels are already devolved to the Scottish Government through the operation of the 2012 *Concordat on Management Arrangements for Fishing Opportunities and Fishing Vessel Licensing in the United Kingdom* (hereinafter "the Concordat"), which is an agreement between the Fisheries Administrations of the four UK countries. You can read the Concordat here:

<http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/Concordat>

1.4 The Concordat provides for a new system by which the UK Government would allocate fish quota to each of the Fisheries Administrations rather than, as had been the case before, allocating it directly to UK fishermen and fishing organisations. The Concordat also allows the Fisheries Administrations to decide the way in which quotas made available to them by the UK Government are allocated to the fishermen that each Administration licenses.

1.5 The Scottish Government is now considering, through this consultation, whether to change the way in which fish quotas are allocated to Scottish fishermen, either by establishing a new system or by modifying the present system. It should be noted that none of the options for allocation systems that the Scottish Government might consider through this consultation are contingent upon the outcome of the referendum on independence.

1.6 The scope of the consultation includes the allocation of quota in respect of Scottish vessels in the membership of a Fish Producer Organisation (PO) (collectively known as “the sector”) and allocations to vessels of 10 metres and under (10mu) that are not members of a PO.

1.7 We do not consider at this point quota allocations for vessels over 10 metres that are not members of a PO (known as the “non-sector”). These vessels can have FQA units attached to their licences, but may not “fish against them”. Rather, quota for the non-sector fleet, like the 10mu system, is managed through a national pool system, with periodic catch limits established in vessel licences, and they may not lease quota. But these vessels tend in the first place to target non-quota species, including crabs and Scallops, and so access to quota is not at present a primary consideration in the development of their businesses. We will consider, with representatives of the vessels concerned, whether there are any implications for the non-sector in any changes considered following this consultation.

1.8 We expect that this consultation will be of interest to a range of persons and organisations with an interest in the fishing industry and the onshore enterprises associated with it, including (but not limited to):

- Fishermen and their representative bodies;
- Inshore Fisheries Groups;
- Fish Producer Organisations;
- Processors and retailers of fish;
- Fishing vessel agents and owners;
- Harbour and port authorities;
- Providers of ancillary services to fishing vessels;
- Local Authorities;
- Banks and other financial institutions with an interest in fishing businesses; and,
- Environmental Non-Governmental organisations.

Why is the Government having a consultation?

1.9 The Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead MSP, wrote to all Scottish fishermen and to other interested persons on 21 February 2014 to explain why the Scottish Government planned to hold a public consultation about fish quotas. In this letter, the Cabinet Secretary highlighted discussions about quota that took place during 2013, including at the 18 “*Quayside Conversations*” that the Government held to discuss issues of interest and concern affecting the fishing industry.

1.10 At these meetings one of the issues that fishermen were most concerned about was how it might be possible to better allocate and manage fish quotas. Some fishermen were concerned about the way in which the present system of allocating and managing quota allows for the leasing of quota allocations and reported that, because of high cost of such leasing, their financial viability was at risk. There were also concerns voiced that it is becoming increasingly difficult for fishermen to gain access to quota, because of the cost of acquiring FQA units. Without such access it is difficult for fishermen to get a start in the fishing industry and to develop their own businesses. These two concerns were voiced primarily in relation to whitefish quotas.

A report of the *Quayside Conversations* is available here:

<http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/common-fisheries-policy/quaysideconversations>

1.11 Of course, there were also other issues of concern raised by fishermen, including the overall amount of quota available to the UK and Scotland, which in some cases is considered to be insufficient. But quota allocation and the cost of leasing quota have been a subject of keen debate among fishermen for a number of years. Certain aspects were also the subject of a previous consultation by the Scottish Government in 2008.

1.12 The Government wants now to consider whether it should respond to representations by changing elements of the quota allocation system. We wish to consider whether it is possible to improve the ways in which quota allocation works so that the Government's objectives can be pursued more effectively and, in particular, to consider whether changes can be made that offer active fishermen better, more affordable, access to quota.

1.13 The Government recognises that quota allocation is a complex and sometimes technical issue which does not lend itself to quick fixes or simplistic solutions. We also recognise that it is an issue of great importance to people and businesses. Many will have made significant investments in quota, not all of which will have been recouped, and any reform to the system would have to take these interests into account in a carefully considered manner.

1.14 The issues under consideration are made all the more challenging because the consultation, of itself, cannot increase the total amount of fish quota made available to Scotland. This total will continue to be informed by scientific advice about options for sustainable harvesting of fish stocks and determined by the outcome of international and EU negotiations. The Government believes however that the fact that fish quotas are a finite national resource makes it even more important to ensure that those available are allocated and managed to maximum effect, in the national interest. In a way similar to our land, sea bed and minerals, fish quotas must be protected and managed effectively now so that people and communities in Scotland can benefit from their sustainable exploitation for generations to come.

Chapter 2: The Scottish Government's policy objectives

2.1 This chapter explains the Scottish Government's policy objectives in relation to the allocation of fish quotas, and discusses connected issues.

Fishing and the Government's economic strategy

2.2 At the highest level, the Government has two objectives in allocating fish quotas:

- To ensure that Scotland continues to meet its international obligations within the EU's Common Fisheries Policy and in this way ensures a sustainable exploitation of natural resources shared by the Member States of the European Union, and with other states involved in fisheries in which Scottish fishermen participate; and,
- To provide a regulatory and management environment in which the fish catching sector and associated onshore enterprises can make an increasing contribution to the Scottish Government's overall purpose, which is to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.

2.3 The Scottish Government's purpose was explained in the updated Government Economic Strategy, which was published in September 2011. You can read the Government Economic Strategy here:

<http://www.scotland.gov.uk/Publications/2011/09/13091128/0>

2.4 In its updated economic strategy, the Government highlighted that, in pursuing economic growth, it wished to share the benefits of growth by encouraging economic activity and investment across all of Scotland's communities and to secure a high quality environment and a sustainable legacy for future generations. The Government emphasised that it wishes economic growth in Scotland to be characterised by *solidarity* (reducing inequalities across all individuals), *cohesion* (reducing the disparity between the regions of Scotland) and *sustainability* (enhancing the environment and reducing emissions).

2.5 Fish stocks are a national resource, the potential benefits of which are so-called resource rents; returns to the resource user in excess of the economic costs of harvest. But, as is clear from the description of its economic strategy above, generating financial profit is not in itself sufficient to achieve the Government's Purpose. The *distribution* of the benefits is also important: as it is in relation to all of Scotland's natural resources. The Government is committed to securing the economic future of coastal communities and to improving the wellbeing of people throughout Scotland. While it is desirable for this industry, as for others, that its future shape be determined in the first place by competition and markets, it will not be acceptable to the Government for fishing activity to be consolidated into a small handful of ports nor for the profits achieved through Scottish fisheries to be enjoyed in places distant from fishing communities.

The 2008 Scottish Government consultation

2.6 This is not the first public consultation that the Scottish Government has published about the future of fishing in Scotland. In May 2008, the Government issued a consultation paper on quota management (and licensing), and in February 2009 an interim outcome document from the consultation was published. It was not then possible for the Scottish Government to implement changes connected to quota because there was no agreement between the UK Administrations about the scope that existed for devolved administrations to adapt UK quota management arrangements. The position has changed now because of the

2012 Concordat, which provides a system of quota allocation and devolved flexibility agreed among the UK countries.

2.7 The 2008 paper, *Safeguarding our Fishing Rights*, proposed five goals for the future success of fishing in Scotland:

- To ensure that Scottish fishing communities retain their fishing rights, now and in the future, and that fishing rights remain a Scottish national asset;
- To promote a shared approach where all concerned are involved in managing Scottish quotas;
- To encourage quotas to be held by those who can fish them, and to prevent them from becoming a speculative asset;
- To provide a stable regulatory environment for the Scottish fishing fleet, for those investing in its future, and for fishing communities; and,
- To encourage the growth of businesses and the regeneration of the fleet, and to keep down the cost of quotas.

2.8 **The Government maintains these goals now.** We view them as positive objectives for the Government's role in the allocation of fish quotas which, if achieved, will better equip this sector of the economy to make its contribution to the Government's overall purpose of sustainable economic growth characterised by solidarity, cohesion and sustainability. This document considers and invites views on the extent to which the options described can pursue the Government's objectives effectively.

Smaller family and local businesses

2.9 The Government is focussed in particular in this consultation on the power of active fishermen to shape their future in the industry and to consider whether and how it might be possible to sustain the traditions of smaller family and local fish catching businesses that are valued so widely in fishing communities. The Scottish Fishermen's Federation has referred to "the unique nature of the Scottish industry", with its models of "local ownership, with the business in the hands of skippers, families or relatively small consortia". As the SFF highlighted "this structure confers a number of benefits, including strong local territorial connections, an extra determination to survive challenges and a very personal requirement to succeed".

2.10 We are concerned that the systems of quota allocation and management that have been in place since 1999 may now be operating in ways that are making it increasingly difficult to sustain these traditions. We are concerned that the industry is approaching and in time will pass a tipping point after which consolidation accelerates and smaller family and local businesses become marginalised.

2.11 In offering these observations the Government wishes in no way to detract from the very positive and valued contribution that larger fishing concerns and companies make to the economy and to local communities. Fishing, like all parts of the economy, has changed and will continue to change. We welcome that. We want to see a fishing industry that is vibrant, dynamic and competitive. There are many successful companies investing now in coastal communities, providing a range of excellent employment opportunities, supplying and exporting high quality Scottish products.

2.12 The Government's intention in raising this issue however is to consider how we might support smaller family and local businesses so that they can continue to thrive and play a part in a successful, innovative and forward looking industry where there is a diversity of successful operating models.

Considering new bases and systems for allocations

2.13 This consultation document includes, as well as adjustments to the existing system, consideration of whether, for policy objectives to be pursued effectively, it is necessary to change the basis or system of quota allocation. This is different to the approach that we took in the 2008 consultation, when the Government proposed from the outset to retain the FQA system as the principal method by which the quotas available to Scotland would be allocated. It then also proposed changes to quota management arrangements designed to make quota more accessible to the active industry.

2.14 Now, we wish to have an open debate about whether the Government's policy objectives can indeed be pursued effectively by improvement to the present system; or, whether it would be more in the long term national interest to undertake a fundamental reform. Such reform might conceivably apply across all quota stocks, or new bases or systems for allocation might instead apply to particular groups of stocks.

2.15 The Government accepts (as was highlighted in the 2008 document) that a debate in these terms does bring with it a level of uncertainty. But we believe that the future of the fishing industry in Scotland is an issue of national importance: it is vital that a policy is in place that supports its long term success. There is also considerable international precedence for this. A number of countries have undertaken reviews of their quota management systems and have conducted public examinations of how they might be reformed in order to promote diverse policy objectives. Many of these reviews have focussed on the steps that could be taken to safeguard the primacy of fishermen within fishing industries and also how communities traditionally involved with fishing might continue to enjoy the socio-economic benefits of continuing activity.

Options that are not considered

2.16 The consultation paper does not consider the option of establishing in Scotland a system of Individual Transferable Quotas (ITQs). Nor does it consider the option of separating the system of quota allocation from fishing vessel licences. The Government rules out both of these options in principle because we consider that they are incompatible with our policy objectives. A system of ITQs involves the effective privatisation of fishing quotas and removing the current association of fish quota to licences increases the scope for persons without any contemporary or positive link to fishing to hold quota. Neither of these outcomes are acceptable to the Scottish Government.

The relevance of the landing obligation

2.17 A new Common Fisheries Policy (CFP) regulation is now in force. It commits the EU Member States to a harvesting of sea fish according to the principle of Maximum Sustainable Yield (MSY) and to the progressive implementation of a landing obligation in relation to sea fish subject to quotas.

2.18 The Scottish Government is working cooperatively with the fishing industry and with others with an interest to ensure the effective implementation of the new regulation. Preparatory steps are being taken in a number of areas, including the further development of measures that can help to reduce unwanted catches. Active consideration is also being given to how it might be most sensible to utilise flexibilities that exist in the new regulation.

2.19 In these preparations, and so as to be clear about the purposes of this consultation, however, it is not the Government's intention to undertake a re-allocation of quota in a way designed to anticipate the catches that vessels will be obliged to land when the landing obligation is in effect. We think it highly unlikely that it would be possible for Government or any other planning body to anticipate with any degree of accuracy the catches that might be taken across the fleets. We prefer instead to focus effort on working with affected fishermen to reduce unwanted catches; to seek to ensure that the maximum amount of quota available nationally and internationally can be sourced for Scottish vessels; and, to consider how businesses might evolve so that they can operate successfully when the landing obligation comes fully into effect.

2.20 On the other hand, we do consider that the prospect of the landing obligation is an additional reason to consult now about the allocation of fish quota. The successful implementation of the obligation will involve very significant challenges, and could well increase demand for quota for species of fish that are abundant or in relation to which Scotland has a relatively small allocation. This involves of course a risk that the cost of leasing such quota will increase. In the light of this, the Government considers it important that we consider now what if any steps can be taken to offer active fishermen better, more affordable, access to quota, so that they can be as well positioned as is possible to manage their businesses after the implementation of the landing obligation.

The referendum on Scotland's future

2.21 The options for change described in this consultation are each designed to be capable of implementation within the powers available to the Scottish Government under the Concordat. These powers are of course limited and exist within the present UK constitutional framework. These limitations mean that the Scottish Government cannot rule out the possibility of our fish quotas being transferred out of Scotland, to another part of the UK, even if Scotland moves to a different basis for quota allocation from the rest of the UK (but continues not to be an EU Member State in its own right). The table below shows that the percentage of UK FQA units held on Scottish licences has, for some quota stocks, declined in recent years. Since 2004, the Scottish share of UK FQA units for whitefish species of main commercial interest to Scotland has reduced by 10%. *Nephrops* by 6%. Pelagic by 2%.

	Percentage of UK FQA units held on Scottish licences						
	2004	2006	2008	2010	2012	2013	2014
Whitefish ¹	77	74	76	70	68	67	67
<i>Nephrops</i> ²	80	82	80	77	76	74	74
Pelagic ³	77	77	76	76	73	75	75

2.22 The present constitutional arrangements also allow the UK Government to top-slice our quotas, as has been done annually in recent years with respect to North Sea Whiting and Western Mackerel.

2.23 The Scottish Government believes that only independence can assure that our fishing rights can remain a Scottish national asset and thus help to safeguard the future of Scotland's fishing communities. Following a vote for independence in the referendum on 18

¹ "Whitefish": NS, WoS and Rockall: Cod, Haddock, Whiting, Saithe, Monkfish, Megrin, Hake, Ling, Plaice.

² "*Nephrops*": NS and WoS *Nephrops*.

³ "Pelagic": NS Herring, WC Herring, WC Mackerel.

September, the Scottish Government will enter into negotiations with the rest of the UK and with the EU institutions to fully define our fishing rights and other key issues, including our share of UK quotas. We believe it will be in the interests of both Scotland and the rest of the UK to agree an appropriate and fair set of allocations so that the normal fishing practices of each state can continue unaffected.

2.24 As an independent Member State within the EU Scotland will also, for the first time, have the ability to protect its own interests internationally and build constructive alliances with others through complete and direct access to EU institutions and votes in the EU Council. Scotland will be negotiating as one of the foremost and most respected fishing nations in Europe.

2.25 As an independent Member State within the EU, Scotland will also continue to play an active role in international quota swaps, which makes an important contribution to our ability to access an increased supply of quota for target stocks. Swaps could of course include arrangements with the rest of the UK. Equally, there is no barrier in present UK and Scottish quota management rules that would prevent POs and others in Scotland from continuing to lease quota from other Member States, including from the rest of the UK. We think it reasonable to expect that leasing arrangements that allow fishers in the rest of the UK to gain financially from quota allocations that they do not intend to fish would continue were Scotland a Member State within the EU.

Chapter 3: The status quo

3.1 This chapter describes the system of allocating fish quotas that exists now and asks whether it should be retained.

Development and review of the FQA system

3.2 The present system of 'sectoral' quota management, where Fish Producer Organisations (POs) manage annual allocations of fish quota on behalf of their members, began in the 1980s. This approach enjoyed, at least for a period, a reasonable level of support in the fishing industry, because responsibility for day-to-day decisions on the management and uptake of quotas was in the hands of the industry, through POs.

3.3 Allocations of quota were based at first on PO member vessels' track record of catches in the previous three years (a "rolling" reference period). During the 1990s, however, there was increasing concern that fishermen were being put under pressure to take their allocations in full, since failure to maintain catches could result in reductions in future quota allocations. The system was also seen to encourage "paper" or "ghost" fishing whereby vessels recorded catches which they did not make simply in order to boost either the vessel's track record or its PO's uptake. It was also believed by some that the system inhibited the practice of swapping or gifting of fish between POs.

3.4 In 1995, the fishing industry was invited by the then Ministers to consider and put forward proposals for improving quota management which would be practical and command wide support. One proposal advocated by a number of fishermen's groups was the adoption of fixed quota allocations (FQAs), in preference to allocations based on the rolling reference period.

3.5 In 1997, a working group of industry and Government representatives was set up to consider the introduction of FQAs to replace allocations based on the rolling reference period. The working group concluded that the arrangements for quota allocations could be significantly improved by the adoption of FQAs and a new system was introduced across the UK in January 1999.

3.6 The new FQA system involved POs and other quota allocation groups receiving a fixed percentage share of the UK's quotas each year irrespective of whether they had fully fished their allocations in previous years, with allocations from 1999 based (in general) on catches (track record) made in the fixed reference period 1994-96. Under FQAs, track records were converted into "quota units" which were then used to calculate POs' allocations.

3.7 It was considered that the FQA system would achieve a number of improvements on the previous system. These included:

- Greater year on year stability in managing quota allocations;
- Less pressure on fishermen and POs to maintain their track records by utilising their full quota allocations;
- The ability to swap or gift quotas without suffering a reduction in future quota allocations;
- Facilitating investment in the fleet by ensuring that track records were retained whilst vessels were being replaced or modernised; and,
- Reducing the bureaucracy and complexity of the previous system.

3.8 When the FQA system was announced, the then Ministers emphasised that it was not the Government's intention to establish a system of Individual Transferable Quotas (ITQs). It was further emphasised that nor was it the intention to make it any easier for licences and quotas to be traded: it was stated in particular that there would not be a free trade in quota units.

3.9 At the time of the main announcement, in June 1998, it was also stated that the new arrangements would be reviewed in 2001. When the review took place, a number of POs and representative bodies pressed the Fisheries Administrations to allow for more flexibility in the operation of the system, and in particular to permit permanent transfers of FQA units between fishing licences.

3.10 The review concluded in 2002. Its main conclusion was that the FQA system had achieved its underlying objectives of more effective management of catches in support of stock conservation, and therefore that the system would continue to operate, with a further review then planned for 2006. In response to the representations calling for greater flexibility, rules were changed to allow individual FQA units to be transferred, but only in specified circumstances. The prohibition on transfers of individual units from the licences of active fishing vessels was maintained.

3.11 Notwithstanding the formal position in relation to FQA transfers, fishermen and others entered into private legal agreements to transfer to the 'buyer' each year the tonnes of quota arising from identified FQA units. Fisheries Administrations had / have no role in these private agreements, but recognising the reality that they do go on, have occasionally conducted 'reconciliations' where, by exception to the normal rules, individual FQA units have been moved between active vessel licences (where both parties agree). The purpose of doing this has been to make unnecessary the costs of maintaining legal agreements over a number of years. The last such reconciliation was in 2010.

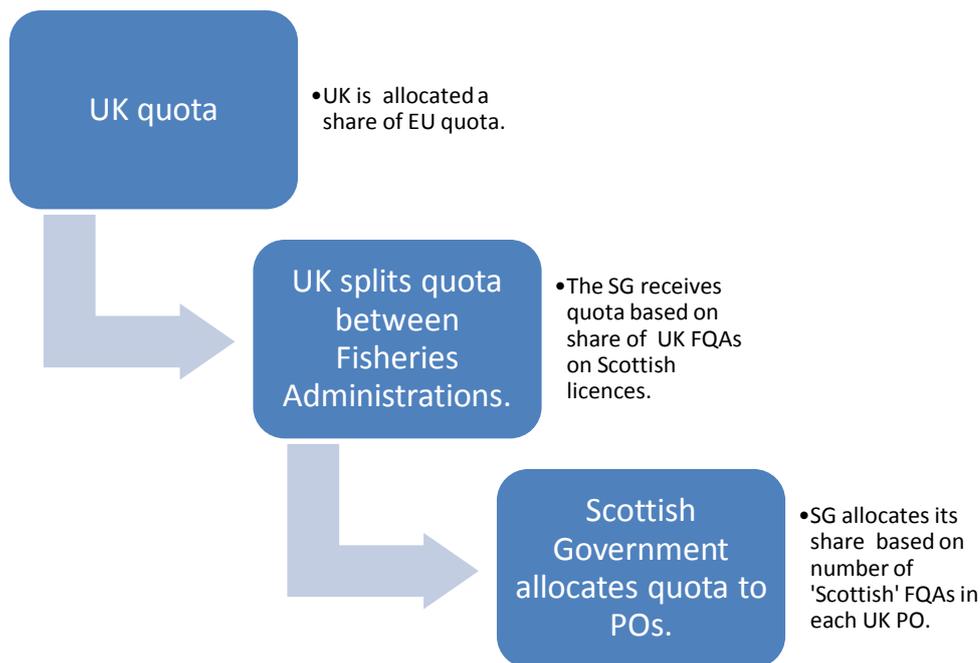
How quota allocation and management operate under the Concordat

3.12 The 2012 Concordat changed the way in which quota allocation operates in the UK. Through the Concordat the UK Government apportions UK fish quotas among the four UK Fisheries Administrations. Before 2012, the UK Fisheries Administrations acting together allocated quota directly to UK POs. The amount of quota that each Administration receives for each quota stock is calculated in general on the basis of the number of FQA units on the licences issued by each Administration. Each Administration in general issues licences to fishing vessels that normally fish out of a port in their territory.

3.13 After receiving quota from the UK, each of the four UK Fisheries Administrations allocate quota to POs. In relation to most quota stocks these allocations are made by the Scottish Government now according to the number of FQA units held for the stocks allocated. This 2 step process is summarised in the diagram overleaf.

3.14 POs also hold 'dummy' fishing licences (i.e. they do not license a real vessel, but are issued to the POs by one of the Administrations) to which they may assign FQA units on behalf of their members or other persons. FQA units held on a PO dummy licence administered by the Scottish Government count towards the Scottish allocation for a given stock.

3.15 A Scottish fishing vessel may join any UK PO, and the Scottish Government will make allocations to any UK PO with Scottish vessels. Once allocations are made to POs, the quota is fully within their control (subject to quota management rules). UK POs can in theory receive allocations from all 4 UK Administrations (if they have members from all 4 countries). The allocation process is summarised in the diagram overleaf:



3.16 Tonnes of quota allocated to UK POs may in general be transferred freely throughout the UK and may also be swapped (with the approval of the UK and the relevant Fisheries Administration(s)) with other EU Member States, in return for quotas that are wanted by UK fishermen. The in-year transfer of tonnes of quota has no effect on allocations in the next year (thus why FQAs are *Fixed Quota Allocations*).

3.17 The Concordat allows each UK Administration to give notice of its intention to alter the basis on which quota within its control is distributed. That may mean not using FQA units if the relevant Administration so decides. 'Notice' in these circumstances is given to holders of FQA units on fishing licences and other interested parties. The Scottish Government gave such notice in Quota Management circular 1/2014 of 28 January 2014.

3.18 When notice is given, the relevant Administration may also introduce a temporary halt to the transfer of FQA units from its licences to the licences of other Administrations. Again, such an arrangement was introduced by the Government via circular 1/2014 of 28 January 2014. After consultation, the relevant Administration may make decisions about a new allocation system. When it does so, it may also offer to existing FQA holders affected by the new system a continuing notice period (which started when notice was first given) during which time the existing allocation system will continue. Under the terms of the Concordat, the expiry of this notice period is to be agreed among the UK Fisheries Administrations and will, of course, depend on the nature of the change.

Arguments for retention of the status quo

3.19 It is clear from formal and informal consultations with fishing industry representatives, Producer Organisations, skippers and other interested parties that there remains a significant body of support for allocations to continue to be made under the present FQA system. Many take the view that the FQA system is a positive aspect of stability in the operation of fisheries management, and offers in particular a sound basis by which businesses can plan for the future. It is also argued that it is significant that there remains support for the approach of the FQA system even while, in the last decade, the quota arising

from holdings of individual units has in some cases declined significantly, as Total Allowable Catches (TACs) have reduced, and the number of vessels in some fleets has declined.

3.20 It is also argued that stability in shares of national allocations, which is the defining aspect of the FQA system, has encouraged banks and others to look more positively upon lending to fishing businesses.

3.21 These views are exemplified by comments offered by the Shetland Fish Producers Organisation, in their response (in a letter of 26 March 2014) to the Cabinet Secretary's letter of 21 February:

“Those fishermen, who remain in the industry today, despite the significant pressures of change in recent decades, are by and large those with the greatest commitment to the future of their industry. Most of these fishermen have been forced through this period to make substantial financial investments in quota in order to remain viable. Many have also borrowed money on the security of the value of their quota holdings to invest in the new equipment and fishing vessels essential to the future of the fishing industry”

“...the current system of quota management and allocation in Scotland may not be perfect, [but] it has worked effectively for many years and is probably as fair as any system anywhere in the world.”

3.22 Arguments emphasising the utility of the FQA system to the evolution of the fishing industry were also offered by the Aberdeen Fish Producers Organisation, in their e-mail of 20 March 2014:

“Since its introduction in 1999 the FQA system has been administered by all actors to provide economic solutions to management problems. The Government throughout this period did not interfere with the exchange of allocation between actors in the industry.”

3.23 The principal arguments offered in favour of the status quo are that it has provided a stable system through which the fishing industry has been able to develop and adapt during fluctuating economic and biological conditions, and has encouraged investment as a result of the security that is considered to exist in holdings of FQA units. Those holding this view often argue that the Government should reinforce and reward investment by maintaining the status quo, and not, in their view, undermine investment by responding to calls for a changed system. It is sometimes argued that the calls for change come from individuals and businesses that did not invest in allocation units when such investment might have been more possible, preferring then perhaps to extract higher profits.

3.24 It is also argued that the FQA system *has* provided a basis through which family businesses and small consortia, highlighted by the Scottish Fishermen's Federation as a distinctive and valued feature of the Scottish industry, have been able to develop and strengthen their businesses. Furthermore, Producer Organisations, local authorities and other organisations and companies with community and / or social objectives have also pursued these objectives by acquiring FQA units and deploying the quota deriving from these units. Community quota schemes have been operated, through Producer Organisations, in Orkney, Shetland and the Western Isles. In this context, it is argued that it is the security that is considered to exist in FQA holdings that has encouraged local authorities and others to make investments in community quota schemes, which might not have been made were an alternative system in place. The Scottish Government certainly sees community quota schemes as a positive aspect of the present system and, however

the quota allocation system might evolve, would wish to see further strength added to community initiatives.

3.25 Those supporting the FQA system do not dispute that the leasing of quota has become a significant operating cost for active fishermen, primarily in the whitefish sector, but they dispute that the level of costs encountered is a function of the quota allocation system. Rather, they contend that it is a function of the aggregate levels of supply and demand for target whitefish stocks. This overall position is illustrated in the table below, which shows, for 2013, the allocations available to Scottish Producer Organisations for selected stocks, and the total landings for those stocks.

3.26 The table illustrates the gap between allocations and landings in some important stocks. The gap is made up through swaps and leasing, and is particularly marked for cod, where the highest leasing prices (as a proportion of landing value) are often encountered. Quotas tend to be leased from the rest of the UK, whereas quota gained from other EU Member States is more often the result of swaps. Access to additional quota depends therefore upon a free flow of quota from and to Scotland and upon business and working relationships among fishermen, Producer Organisations and companies in the rest of the UK and the EU, and between the UK Fisheries Administrations and other EU Member States.

Stock	Scottish POs total	Scottish POs total	Landings as % of allocation
	2013 allocation	2013 landings	
NS cod ⁴	6,446	9,193	143%
NS haddock	22,317	26,497	119%
NS whiting	7,924	8,772	111%
NS saithe	3,801	6,473	170%
NS plaice	3,279	1,225	37%
NS hake ⁵	327	938	287%
NS monkfish	5,941	3,697	62%
WoS haddock	2,939	3,512	119%
WoS saithe	2,572	3,521	137%
WoS plaice	288	34	12%
WoS hake	2,040	1,851	91%
WoS monkfish ⁶	1,157	1,550	134%
WoS mackerel	109,229	116,728	107%
NS herring	37,732	38,834	103%
A-S herring	7,507	8,342	111%
NS <i>Nephrops</i>	10,515	5,163	49%
WoS <i>Nephrops</i>	10,654	8,827	83%

3.27 It has also been argued that the high lease prices for cod are in part an unintended consequence of the Scottish Government's Fully Documented Fishery (FDF) scheme for North Sea Cod. Vessels participating in this scheme are not permitted to discard Cod in the North Sea and therefore must retain access to Cod quota in order to continue fishing in that sea area. While only a minority of the fleet has been involved in the FDF scheme (numbers in recent years have varied between 18 and 25 vessels) it is contended that their

⁴ Includes 451 tonnes from NS Cod FDF scheme uplift.

⁵ Includes 475 tonnes from the flexibility to transfer WoS hake allocation and fish in NS.

⁶ Includes 254 tonnes from flexibility to transfer NS monkfish allocation and fish in WoS.

requirement for cod quota has injected additional demand into the leasing market, placing upward pressure on price.

Conclusions

3.28 The Scottish Government acknowledges the logic of the arguments offered in favour of the status quo. The Government also accepts without question that the organisations, companies and individuals who argue positively for the utility of the FQA system are as sincerely committed as the Government is to the success of Scotland's fishing industry and its communities. We welcome responses to and views about the issues raised in this consultation from those that favour retention of the FQA system.

3.29 The Government does invite those that might prefer the status quo to continue to consider in particular and to offer views about how the objectives described in chapter 2 can be pursued effectively. In this respect, there seems a reasonable level of evidence to indicate that retention of the status quo would enable the Government to pursue some of its objectives effectively, in particular to:

- Provide a stable regulatory environment; and,
- Encourage the growth of business and the regeneration of the fleet.

3.30 Moreover, it is acknowledged that the current FQA system *has* been utilised by fishermen and other active participants to pursue some of the Government's other objectives, including to:

- Ensure that Scottish fishing communities retain their fishing rights;
- Encourage quotas to be held by those who can fish them; and,
- Keep down the cost of quota

3.31 But it remains the case that the status quo FQA system does not in its construction offer any particular support or preference to social or community objectives. It is quite possible for the present system to serve and be driven by purely commercial interests that have no desire to maintain a balance between social and economic priorities. The Government considers that this will remain a risk were the status quo system to continue in an unmodified form, and we invite consideration of this issue.

Consultation questions

- Do you favour retention of the present FQA system as the principal basis of allocation for Scottish quotas for vessels in the membership of POs? How do you consider that this approach will pursue the Government's objectives effectively?

Chapter 4: Improvements to the status quo.

4.1 This chapter describes changes that could be made to the existing system that have potential to pursue the Government's objectives more effectively.

Background: The 2008 consultation

4.2 As is noted in chapter 2, the Scottish Government published in 2008 a consultation paper that proposed a number of changes to quota management arrangements. These changes were designed to create incentives that it was hoped would have made quota more accessible to the active industry. They were proposed, however, within the overall context of an approach that would have seen the FQA system maintained as the principal method by which the quotas available to Scotland would be allocated.

4.3 The Government continues to view positively the possibility that its objectives could be pursued effectively while also maintaining present FQA holdings as the main basis on which Scottish quotas are allocated. In this chapter, therefore, we consider changes that could be made to improve the present system that the Government consider can pursue its objectives more effectively. Some of the proposals here were also included in the 2008 document or are based upon them, and some are new.

The establishment of 'stewardship' rights

4.4 In 2008 the Government's consultation proposed to establish "stewardship rights" for holders of FQA units on Scottish licences.

4.5 Stewardship rights would mean that FQA holders could in general expect access to a defined portion of the fish quotas available to Scotland, subject to any management measures and modifications decided by the Scottish Government. The Scottish Government would in particular reserve the right to vary the amount of quota for each stock that it would allocate to the "Scottish sector" (i.e. in relation to Scottish over 10 metre licensees in the membership of a PO), but would also undertake that any such variations would not impact significantly on the amount of quota available to those holding stewardship rights. The purpose of the proposal therefore was to offer holders of FQA units on Scottish licences a greater degree of certainty over access to quota than is the case now, but also to maintain the ability of fisheries managers to balance social and economic objectives.

4.6 Stewardship rights would not be granted in perpetuity, but would be subject to a rolling notice period. The purpose of the notice period would be to underline that Government continues to reserve the right to recall allocations if it considers that the quota system is not working as intended to provide social and economic benefits to Scottish fishing communities. Any such recall would be subject to consultation, and it would remain possible for a recall to be rescinded were issues of concern to Government to be resolved successfully. The overall effect would mean that each year, if the Scottish Government had not given notice of its intention to recall some or all quota allocations, the holder of a stewardship right could rely upon receiving broadly the same proportion of Scottish quota for a defined number of years into the future. A notice period of this kind operates in other countries, for example in Denmark.

4.7 In 2008 the Government proposed that stewardship rights should be granted subject to a rolling notice period of 5 years. In the February 2009 document that explained the interim outcome of the consultation the proposal was adjusted such that the notice period was extended to 7 years. This adjustment took account of concerns expressed in responses to the consultation that the 5 year period was too short to cover fishing business plans and

borrowing profiles. We continue to believe that this longer period would be suitable were stewardship rights to be established.

4.8 The 2008 document also stated that there could be circumstances where external shocks, such as a unexpected and substantial change in the basis of EU allocations, or other unforeseeable events, made it necessary to reduce or remove altogether the period of notice. These observations remain valid now and in the future.

Quota holders: a new requirement for a positive link to the active fishing industry

4.9 In 2008 the Government stated that it wished to see fishing rights retained in Scottish fishing communities for the benefit of current and future generations, encouraging quota to be held by those with the means to fish it, and to discourage its emergence as a speculative asset. That remains the Government's policy now: we wish to ensure that quota allocations on Scottish licences are held only by individuals and organisations that have a contemporary and positive link to fishing, whether directly or as part of a wider structure of support or investment.

4.10 In 2008, the Government also expressed concern about the lack of transparency in FQA holdings, particular with respect to identifying the beneficial interests connected to holdings on PO dummy licences. In the intervening period, some progress has been made on this issue. In December 2013, the UK Fisheries Administrations released the first stage of a publicly accessible FQA register, which you can access here:

<https://www.fqaregister.service.gov.uk/>

4.11 This register shows details of the FQA units assigned to UK fishing vessel licences, licence entitlements and PO dummy licences, as at 1 January 2013. In relation to holdings on PO dummy licences, the register categorises and identifies persons and organisations that hold units. The categories include fishing vessel licensees of course, but also show units held by the PO for the common benefit of their members, by fishing vessel agents and owners and also those held by corporate bodies and private persons. The second stage of the register will be implemented in 2014, showing changes in holdings and will also have functionality added such that the process of transferring FQA units (insofar as such is permitted by the UK Administrations' rules) may be completed on the internet register, rather than through the paper process that exists now.

4.12 The Government considers the FQA register a welcome improvement in the transparency of quota holdings. We remain concerned, however, that there continues to be inadequate control over the types of persons and entities that are permitted to hold FQA units on Scottish licences. If the present FQA system is to be retained, one important improvement that could be made would be to introduce a more prescriptive test to decide whether a person might be permitted to hold FQA units on a Scottish licence, so as to be sure that units are held only by those with a contemporary and positive link to fishing. To this end, one might require that holders of units on Scottish licences fall into one of the below noted categories:

- Fishing vessel licensees;
- Fish Producer Organisations;
- A person or entity that owns (whether in whole or part) one or more Scottish fishing vessels;
- A person employed on a fishing vessel;
- A local authority constituted under section 2 of the Local Government (Scotland) Act 1994, or a joint board of such authorities; or,

- A charity or other entity whose objects, in the opinion of the Scottish Government, involve the promotion of the fishing industry in general and / or of localities from which fishing is conducted.

4.13 Were the Government to proceed with such an approach, we would welcome proposals for other categories of person or organisation that might be added to this list. It would also be necessary to consider the details of new requirements, including to: ensure that links were meaningful and could be verified, as well as contemporary and positive; have confidence that a person or organisation could properly be included in one of the categories; and, minimise any new administrative burden on POs and others.

4.14 It would be necessary to consider what steps to take in relation to present holders of FQA units that did not fall into one of the categories described. It would be possible for the quota arising from such holdings to be allocated by the Scottish Government in the annual allocation exercise only after the holder had informed the Government which fishing vessel(s) were to have access to the quota arising from 'their' units. Such an approach might continue for a number of years, after which the units might be recalled. Alternatively, the Government might require relevant holders to transfer their units by a specified point, with any units not so transferred after that point being recalled by the Government.

Improving fishermen's access to FQA units

4.15 Alongside the issue of the types of persons that might be permitted to hold FQA units on Scottish licences is the more practical and perhaps more pressing matter of the ability of active fishermen to secure holdings of FQA units, from which they might in due course establish new businesses, either on their own or with partners.

4.16 The Government has become aware, through discussions with skippers and industry representatives, that it has in recent years become very difficult, perhaps at times impossible, for younger fishermen and those that have been active for some time, to gain access to the FQA units which form part of the package needed for a fishing business to be established, or for an established business to grow.

4.17 The view has been expressed that this position has developed because, when FQA units become available, only a relatively small number of companies and POs are able to offer the prices being sought. Recent intelligence, based on discussions with industry representatives, suggests that the average bundle of whitefish FQA units becoming available for transfer might be made up of around 5000-6000 units, and that bundles of this size might 'sell' for amounts approaching £1 million (even though this number of units are unlikely themselves to produce tonnage sufficient to support fishing for more than a portion of the year).

4.18 If the reality of the general position is close to that described in these discussions, then the difficulties faced by fishermen aspiring to develop their own business are obvious. Indeed, a number of responses to the Cabinet Secretary's letter of 21 February described exasperation about this very issue. Comments from two fishermen, reproduced below, exemplify these views:

"No one can compete with the money these big players have. When a set of FQA units come up for sale they can bid over the odds prices"

"Why is that this generation [referring to those allocated FQA units in 1999] is to be given this opportunity and the newer current and future generations have little or no chance to grow successfully"

“It is virtually impossible for a young person to enter the industry unsupported by a family history and build themselves a sustainable business that extends beyond a very small under 10 metre operation”

4.19 The encouragement of new entrants into the fishing industry (in the sense both of the supply of labour and also the establishment of new enterprises) were issues considered in the 2008 consultation. Since then the Scottish Government has worked in partnership with the fishing industry and others to promote employment in the fishing industry, focussing on encouraging new fishermen to join the industry at the entry level: i.e. as crewmen. In tandem with the Scottish Fishermen’s Federation, the Scottish Government has established a Marine Modern Apprenticeship. Alongside these actions, the Seafish Industry Authority and the Fishing Industry Training Association continue to provide introductory training for new fishermen.

4.20 There are also initiatives promoted locally that seek to encourage new *businesses* to be established. These involve local authorities, Producer Organisations, Fishermen’s Associations, banks and others. One such initiative is in place in the Outer Hebrides and similar efforts are under way in Shetland, under the aegis of the Fish Producer Organisation. Limited funding for new fishermen has also been available under the European Fisheries Fund (EFF).

4.21 A question for this consultation therefore is whether complementary steps should be taken nationally to provide incentives for new fishing enterprises to be established from within the active fishing industry. In the 2008 consultation, the Scottish Government asked for views in particular about the possible establishment of a national quota reserve that might provide access to quota for new fishermen. At the time, the Government asked for views about:

- How and from where would quota be acquired for a national reserve;
- How such a scheme might be organised; and,
- Who might be able to access the fund, and on what terms?

4.22 It is possible to conceive of a number of answers to these questions, and different ways in which a new entrants scheme might operate.

- The Concordat provides the Scottish Government with power to retain centrally amounts of quota, and amounts could be retained to establish quota for a new entrants fund. An alternative approach would be to recall a small percentage of units on each occasion that FQA units were transferred from Scottish licences, and thus over time build up a reserve of units to provide quota for a new entrants fund.
- A scheme could be organised nationally. The Government might invite bids, which conceivably could require endorsement from a PO willing to ‘match-fund’ Government allocations, at least to some extent, and for an initial number of years. Alternatively, the Government might invite POs to operate a new entrants scheme.
- Perhaps the most challenging issue of design would be to consider which applicants would be selected and how such start up quota should be allocated. This could well require a judgement to be made between a number of qualifying applicants. New entrants selected could be offered quota incentives over a limited time, and with decreasing amounts of quota provided as businesses became established and developed their ability to source fishing opportunities. Under such an approach, while there would be initial assistance for start-up, the onus would be on new businesses to be successful, and the resources of the quota reserve could be re-

cycled and re-used on a rolling basis. An approach on these lines is adopted in the Danish 'Fish Fund', which offers quota to new skippers that have demonstrated a financial commitment to the industry, such as by purchasing a new vessel.

4.23 Responses to the 2008 consultation recognised that attracting new entrants was an area that required attention. Although there was some support for it, in 2008 the proposal for a reserve was a contentious one. Many responses emphasised that the level of quota was already very restricted, and that retention of some to fund a reserve could not be afforded.

4.24 A new entrants fund, on the general lines of that proposed in 2008, remains an option for Government action. Another possibility would be to adapt the rules that control transfers of FQA units so as to make it easier for new entrants to acquire FQA units.

4.25 FQA units must be associated with a fishing licence. Permanent transfers of individual units between licences are permitted only in certain circumstances. The Scottish Government has always been cautious about relaxing the rules around permanent transfer of individual units from active licences (i.e. licences licensing a vessel). We have been wary that an uncontrolled progression towards free trade in FQA units could have damaging and unintended consequences. We did propose in the 2008 document that transfers of units from active licences be permitted, but only when the new Scottish system of quota management and licensing then proposed was fully established. We continue to be open to this possibility, but also remain very focussed on ensuring that any possible development of the FQA system is used positively to support our policy objectives, and does not defeat them.

4.26 To this end, one change to the FQA system that we would be willing to consider now would be to permit transfers of individual units from active licences, but in a way designed to ensure that smaller 'bundles' of units became available for transfer, with the expectation that such bundles might be more affordable for individual fishermen or groups of fishermen interested in establishing their own businesses. Controls could be placed on transfers. For example, a transfer involving 33% or more of the units on an active licence might be permitted only insofar as it had been preceded by not fewer than a certain number of transfers (perhaps 3) where the percentage of units transferred had been less than 10% (but more than a minimum percentage) of those on the licence, and where there had been three separate recipients of the units transferred out. There would of course be many details to be considered and worked through in an approach on these lines, or in similar approaches.

4.27 We welcome consideration of this proposal and invite other ideas and proposals for other adaptations that might have potential to encourage positive evolution from within the fishing industry, in ways that keep more power over fish quotas in the hands of active fishermen and their communities.

Attempts to control leasing costs directly

4.28 As is discussed above, the cost of leasing quota was one of the issues raised most often by skippers in the course of the 2013 Quayside Conversations.

4.29 There is of course a need under present arrangements for quota to move around the system in order to reach those that need to fish it: full utilisation depends centrally upon the efficient circulation of quotas. With many POs and quota holders involved, this movement has and is likely to continue to be most commonly and efficiently achieved through trading.

4.30 But while the Government accepts the need for quota movements, we also consider that there is an onus on Government to examine whether there would be public benefit in managing quota movements in ways which regulate the free market to meet social

objectives. This is because we consider that fish quotas are a public asset belonging to no one individual or set of individuals.

4.31 In developing proposals to improve the status quo system, therefore, we have considered whether it might be possible to address the problems raised with us by attempting to control leasing costs directly. This would in theory involve some method by which Government could successfully take control over or set limits on the commercial interactions that give rise to the swapping or leasing of quotas.

4.32 After consideration, however, we have not been able to devise any proposal for a method by which the Government could lawfully and effectively secure direct control over lease prices for quota. We are also alive to the possible risk that Government attempts at control could inhibit the flow of quota in a way that could cause significant disruption to business activity and could prevent businesses from responding promptly to developing market conditions.

4.33 It appears to the Government that the only way to secure direct control over leasing prices (or, indeed, to eliminate quota leasing altogether) would be for the Government to take a considerably more prominent role in the day to day management and utilisation of fish quotas. Options for how the Government or public bodies could take on a role of this kind are discussed in chapter 5.

4.34 Therefore, instead of seeking control over lease prices directly, the Government's proposals in this chapter encourage quotas to be held by those who can fish them and to reduce the costs of quotas by making it easier for active fishermen to acquire FQA units, thereby potentially reducing their reliance on leasing.

4.35 The Government does however remain interested to receive proposals for action that could be taken by the Government, properly, or by the industry, which might have potential to reduce leasing costs. We would also be very keen to hear from the fishing industry and other representatives about steps that could potentially be taken by the industry itself to improve the efficiency and transparency of the quota leasing market. Would it be of help, for example, for more leasing of quota to take place publicly, through a number of competing and fully transparent internet platforms? How might such developments be encouraged? Could quota management rules be adapted to make the emergence of such transparent trading platforms more likely? We welcome ideas and debate on this issue.

4.36 The Government would also be interested to receive in consultation responses any evidence that would suggest that the lease market for fish quotas is being distorted by anti-competitive behaviour of some kind. We are not aware of any evidence that there is in this market a dominant undertaking that is abusing its position to undermine competition, nor that there exist anti-competitive agreements that might be thought to constitute a cartel. If there is evidence that competition is being undermined in some fashion, we would be keen to receive it, because it would inform considerations about whether there was a need for Government intervention.

Conclusions

4.37 In this chapter we have considered whether the status quo FQA system could be developed in ways that pursued the Government's objectives more effectively. It does seem to the Government that there are improvements that could be made to the present system that have potential to:

- Seek to retain fishing rights for fishing communities and as a Scottish national asset, by better defining the rights that FQA holders have over quota allocations, in ways that allow social and economic objectives to be balanced; and,
- Encourage quotas to be held by those who can fish them, by:
 - Ensuring that only those with a contemporary and positive link to fishing may hold FQA units on Scottish licences; and,
 - Making it easier for active fishermen to gain access to FQA units, so that they can develop their businesses.

4.38 In addition, the retention of the status quo FQA system as the principal basis for allocation would also retain its advantages in terms of:

- Providing a stable regulatory environment; and,
- Encouraging the growth of businesses and the regeneration of the fleet.

Consultation questions

- Do you favour the establishment of ‘stewardship rights’ for holders of FQA units on Scottish licences?
- Do you agree that FQA units on Scottish licences should be held only by persons and organisations that have a contemporary and positive link to fishing?
- If you do agree with the need for a link to fishing, do you consider that the categories of persons and organisations proposed as having such a link is correct? Should there be further or different categories?
- Do you favour the establishment of one or more reserves of quota that would be deployed to assist new entrants to the fishing industry?
- If you favour the establishment of one or more reserves of quota for new entrants, what are your views about:
 - How such a scheme might be organised;
 - How and from where would quota be acquired for a national reserve; and,
 - Who might be able to access the fund, and on what terms?
- Do you favour allowing individual FQA units to be transferred from the licences of active fishing vessels?
- If you are in favour of allowing such transfers, do you also favour controls on such transfers, such that units become available in smaller ‘bundles’, which might be easier for newer businesses to acquire? What are your views about the method described by the Government?
- If you favour retention of the present FQA system, are there other improvements to the system, different to those described by the Government, which you consider would better pursue the Government’s policy objectives?
- Is there action that could be taken by the Government, properly, or by the industry, which might have potential to reduce leasing costs?

- Are there steps that could be taken by the industry itself to improve the efficiency and transparency of the quota leasing market?

Chapter 5: Options for new bases and systems for quota allocation

5.1 This chapter describes alternative methods by which Scottish fish quotas could be allocated, and invites views about whether establishing a new basis or system for the allocation of fish quotas might pursue the Government's objectives more effectively than either the status quo or an improved version of it.

Intention to consult further about a new basis or system

5.2 The Government's purpose in including this chapter in this consultation document is not to require those responding to the consultation to select one of the options described here as the exact way in which they might wish to see quota allocation changed. Of course, if organisations or individuals feel strongly that one of the options, or some variant of them, is the best approach then they can indicate that in their response. But, for this document, what the Government is seeking to establish is what views there are in *general* about whether a new basis or system is necessary if there is to be a reasonable prospect of the Government's objectives being achieved.

5.3 To help that consideration, we offer some details about what different kinds of change could look like, but we are not in this chapter making definite commitments about how different systems might operate in practice. Rather, if the Government, after considering responses to the consultation, were to decide to change substantially the basis on which fish quotas are allocated, there would commence a further period of consultation. During this period, which would take place in 2015, the Government would describe exact methods by which quotas could be allocated. It is likely that the Government would wish to convene an expert steering group to consider the number of detailed questions that would arise. Chapter 6 explains how the Government would propose to manage a transition to new systems of fish quota allocation.

Options

5.4 This chapter considers 3 options:

- A re-basing of FQAs on a more recent reference period;
- The basing of allocations on a rolling reference period; and,
- A move to a system of collective allocation and management of fish quota.

Each of these options has different features, but their shared purpose is to design into the system of allocating fish quotas characteristics that pursue directly the objectives described in chapter 2 above, rather than, as is the case in chapter 4, seeking to adapt the status quo in ways that merely have potential to allow Ministers' objectives to be pursued more effectively.

Making FQA allocations on a new reference period

5.5 One possible method of reform is to maintain an FQA system but to **move the reference period on which allocations to Scottish licence holders are based to a more recent period**. The present reference period, 1994-1996, is now nearly twenty years old and catches recorded then bear little resemblance to holdings of FQAs and the general position now. FQA units have moved between licences, as a result of trade and substantial structural change in the fishing fleets, including after two publicly funded decommissioning schemes and a number of so called "reconciliation" exercises between 2002 and 2010.

5.6 A change in the reference period, for example to reflect catches taken during 2011-2013, or during a longer period, would result, at least in the short to medium term, in a larger proportion of Scottish vessels being allocated FQAs that more closely matched their share of recent fishing activity, thus reducing the need for them to lease in additional quota. The winners in this re-allocation will include fishermen that had invested in FQA units and fished against them. They would receive new allocations that generally reflected those investments (whether or not the units had been held on the vessel licence). This would also be true for those that had not acquired FQA units (or who had held but then disposed of units) but had also (during the new reference period) leased quota to maintain fishing activity.

5.7 Clearly, those that had held units but in the particular reference period had chosen not to fish all the quota arising would lose out. The losers will be a diverse group, including corporate entities and non-fishing organisations (for example, POs, local authorities and vessel agents and owners), retired skippers and fishermen who for whatever reason were unable to fish up to the level of their quota holding in the new reference period. This latter circumstance might well give rise to a requirement for a review process, so that representations about exceptional circumstances that had led to a lower allocation could be considered. Such a review process could of course be lengthy and complicated.

5.8 A new reference period could result in fish quotas being allocated only to the licences of active fishing vessels, at least at the outset, if only vessel landings were taken into account. In a straightforward sense, this approach would achieve one of the Government's policy objectives, which is to see quota in the hands of active fishermen. But a simple approach would also result in the withdrawal of allocations made now to Producer Organisations that are held either in the common interest of their members or for third parties such as local authorities, where quota arising is deployed to support local economic development.

5.9 It would be possible to conduct a re-allocation on a more selective basis, with units held by specified categories of person, such as POs or local authorities, being left as they are now, while other units were re-allocated on the basis of the new reference period. It would be important of course that the criteria supporting any more selective form of re-allocation were objective and transparent and a selective re-allocation on these lines could also give rise to a further basis for review of any exceptional circumstances. It would also be possible, if there appeared to be sound reasoning, for a re-basing of FQAs to be applied in relation to some fleet segments or stocks, but not to others. Such an approach might take account of the proportion of units held away from active licences and / or the extent to which consultation responses and other evidence highlights sectors where access to quota is most difficult.

5.10 The Government accepts that there is a requirement for a period of notice before a move to a new reference period. But a notice period does create some challenging issues of design for re-allocation. Chapter 6 envisages that a new system of allocation might come into effect in 2021. That being so, there arises the issue of which years the new reference period might include. Allocations that might have effect first in 2021, but which are based on catches taken in 2011-13, for example, will clearly not reflect contemporary fishing patterns in 2021. While in these circumstances it would be possible to eliminate some of the more perverse effects, for example by disregarding the catches of vessels no longer active, it is still likely that there would be very significant complications in assigning shares of catches recorded in 2011-13 to the vessels active in 2021.

5.11 An alternative to a new reference period that had become 'ossified' before it could even come into effect would be to have a reference period that included the three (or more) years immediately before the introduction of the new system. This approach would remove the flaws associated with a less recent period, but would in their place create a risk that

vessels would alter behaviour during the “notice” period in order to boost their allocation. While improved systems of control and recording might make unlikely a return to ‘ghost fishing’ practices of the past, it may be that vessels decide to fish as much as possible, and not lease quota, in ways that could diminish economic efficiency and inhibit transfers of quota that are useful to the system as a whole.

5.12 It will also be necessary to consider in relation to re-basing, alongside the arrangements that apply when the re-allocation takes place, what rules might then govern the allocation and management system once the re-based allocation had been decided. If the Government concludes that the management system under the status quo has over time undermined its policy objectives, then it will be necessary to consider under a re-based allocation whether to introduce more stringent controls, for example on the ability to transfer units, that might inhibit a repeat in the future of the developments that cause concern now. It will also be necessary to consider whether the Government might state, in advance, its intention to conduct a further re-basing at a given point in the future, so that the developments that make it necessary for the Government to offer a notice period do not apply in the future.

Basing allocations on a rolling reference period

5.13 An alternative approach to a re-basing of the FQA reference period would be to **base allocations on a rolling reference period**. This was the system that applied before 1999: although of course a new system could have different rules to the one that operated then. Under a rolling reference period, allocations would be based each year on the catches recorded by vessels in a number of years immediately preceding the year in which the allocation was based. The reference period could be 3 years, as in the old system, or longer, for example, over 5 or 7 years.

5.14 The principal advantage of a rolling reference period is that it allocates quotas to fishing vessels in line with their recent fishing activity in a dynamic fashion. From the point of view of seeking to allocate quota to active fishermen, a rolling reference period is superior to a re-based allocation because the basis of allocation is updated annually, and the risk of ossification that is involved in a re-based reference period does not exist. A rolling reference period might also be considered superior in terms of the access to quota that can be secured by newly established or developing catching businesses. New businesses would in all likelihood have to lease in quota in their first years of operation, but, over time, as the reference period rolled, their fishing activity would generate an allocation.

5.15 A rolling reference period also undermines substantially the basis for permanent trade in quota allocations, because no allocation is fixed, and its operation eliminates the risk that non-vessel interests can accumulate allocations that they then lease to vessels. But, as with re-basing, the provision of allocations to vessels alone would eliminate allocations to local authorities and Producer Organisations that hold reserves of quota in the common interests of members and / or to advance local economic development.

5.16 A move to a rolling reference period also creates winners and losers. Initially, these would be largely the same as those for re-basing the reference period. The difference with a rolling reference period is that those effects are dynamic and will be felt over subsequent years as well as in the first.

5.17 A rolling reference period also involves similar and potentially complex issues of design and transition. If it were concluded that a prospective reference period (e.g. 2018-2020) involves too much risk of vessels altering behaviour to maximise future allocations, an alternative approach would be to maintain the status quo FQA system until 2021 and then only begin to ‘roll’ allocations after 2021. It would also be necessary to consider whether it

was possible to design a new system in a way that could reduce or eliminate altogether the shortcomings that were considered to exist in the previous rolling reference period system, in particular with respect to the willingness of vessels and POs to lease or swap quotas when their allocation in future years would be diminished as a consequence.

Implications of change for business development and lending

5.18 It is important of course that any new system of allocation encourages enterprises to become more profitable and to invest in the continuing success of their business. A decision by the Government to re-base the FQA reference period or to adopt a rolling reference period would change significantly important assumptions underpinning the operating and development plans of catching businesses. Businesses and financial institutions will wish to consider how altered allocation systems could be taken into account in the consideration of businesses' plans for development and institutions' policies on lending and risk management.

5.19 Financial institutions will have a strong interest in the proposals about periods of made in chapter 6. If the Government were to decide upon a re-basing of the FQA reference period, the Government expects that they will also have a strong interest in the approach to re-basing and perhaps particularly plans for how long the re-based reference period might continue to be the basis for calculating allocations. Were the Government to opt instead for a rolling reference period, it would also be necessary to consider the approaches through which fishing businesses could raise capital from financial institutions for the purposes of business development.

5.20 Significant investments were obviously made during the time that a rolling reference period was in operation before, although that was one when fish quotas available were in some cases at a substantially higher level than is the case now. Were fixed quota allocations to be abolished, interactions between financial institutions and catching businesses might develop in time to resemble more closely those that institutions have with other enterprises.

5.21 The Government welcomes views on these issues and will continue discussions with financial institutions, and in particular of course with the Scottish clearing banks that play such a strong and positive role in supporting the success of the fishing industry in Scotland.

A move to a system of collective allocation and management of fish quota

5.22 All of the options so far considered in this consultation paper are based in one way or another on the allocation or assignment of fish quotas to fishing licences (which in turn are managed by POs). Albeit through changing methods, this has been the general way that quotas have been allocated and managed since catch limits were introduced through the Common Fisheries Policy, in the 1980s.

5.23 It is possible however to conceive of quite different approaches to the organisation of fish quotas and the fish catching industry, and the Government – while making no specific proposal about these possibilities – does seek views and suggestions about how radically different approaches could be developed. We also invite those with an interest to consider what risks and rewards could exist in wholly new approaches to the management of this national resource.

5.24 Across the world, there are many different approaches to the management of fish quotas. In some places, individual quotas have become more prominent, such as in Denmark, Iceland and, indeed, in the United Kingdom. Other countries and some UK POs have sought on the other hand to maintain a more collective approach to the allocation of

fish quotas, and to underline that quota remains throughout a national resource that is controlled in the collective interest. In some places, for example in the Republic of Ireland, the national Government continues to perform a prominent role in the in-year management of quotas, setting catch limits for most fisheries in the way that in Scotland is now confined to vessels not in the membership of a PO. In the Republic of Ireland, if for any reason vessels do not catch their quota for a given period, the quota is returned to the state for re-allocation.

5.25 Collective management does of course exist in Scotland now, through POs. Some POs operate pool systems of allocation whereby catch limits are set according to the aggregate amount of quota available, although some also allow members to top up collective catch limits with individual leasing. Other POs operate purely on the basis of individual catch limits for vessels, based on the quota arising from vessels' FQA holdings and the quota that they lease. But, as is observed earlier in relation to the FQA system in general, these models of management continue because of preferences of individuals and organisations rather than anything in the set-up of the system. There exists nothing in the present rules to prevent all POs moving to systems based only on individual quotas.

5.26 It would be possible for the Scottish Government to establish, conceivably through primary legislation were that considered necessary, a new system of fisheries management based upon collective allocations of fish quota. A new system could involve, for example, the establishment of regional fisheries management authorities. These authorities could potentially be public bodies in their own right or legislation might provide instead for a system of time limited franchises. They could be established (or franchises granted) with duties or statutory objectives that would be prescribed by the Government in statute or in some form of binding agreement. A primary objective could be to stimulate sustainable economic development in fishing communities through the allocation and management of fish quotas. But the bodies established would not be permitted to assign to fishing vessel licensees fixed allocations of quotas, and swaps of quota between Scottish bodies would also be controlled nationally.

Conclusions

5.27 As is noted at the outset, the Government's purpose in this chapter is not to make definite proposals nor to require respondents to commit themselves to a clear preference. Rather, our intention here is to underline that the Government *could* introduce significant or even fundamental change and that we wish all with an interest to reflect on the possibility that a substantial shift in approach might be required if the Government's objectives are truly to be pursued effectively.

5.28 Chapter 4 described ways in which the status quo FQA system could be adapted to better pursue the Government's objectives. There may however be a view that measures designed to modify and improve the status quo may in the end prove insufficient if the Government wishes to shape decisively the way in which the fishing industry in Scotland is to develop. There may be a view that significant change is necessary if the social and economic benefits of fishing are to be distributed widely around our coast and if smaller family and local businesses are to continue to play a strong role in the future.

5.29 The Government concludes therefore that it is possible that new bases or systems of allocation do have considerable potential to pursue, directly and effectively, some of the Government's policy objectives. In particular, change could:

- Ensure that Scottish fishing communities retain their fishing rights, now and in the future, and that fishing rights remain a Scottish national asset, particularly if a new system did not operate on the basis of fixed quota allocations being assigned to fishing licences;

- Ensure that quotas are held by those that can fish them, and prevent them from becoming a speculative asset, by re-basing allocations or by moving to a rolling reference period; and,
- Keep the cost of quota down, by discouraging permanent trade and using the power of Government to seek to ensure that quota was allocated directly to active fishermen.

5.30 On the other hand, significant change in the allocation system could also bring challenges.

- Change itself could be regarded as a strain on the resilience of the fishing industry, which faces a number of other challenges in the short to medium term, including the implementation of the landing obligation;
- By definition, there would not be a stable regulatory environment, at least until new arrangements had been introduced and had time to settle down; and,
- It will also be necessary, in considering the merits of new bases and systems of allocation, to reflect upon how approaches to business development and lending might need to evolve to ensure that the quota allocation system could continue to encourage effectively the growth of businesses and the regeneration of the fleet.

Consultation questions

- Do you consider that a new base or a new system for quota allocation is necessary if the Government's policy objectives are to be pursued effectively?
- If you favour fundamental reform, but also consider that allocations to individual licences should continue, do you favour re-basing allocations to a more recent reference period or allocations based on a rolling reference period?
- If the Government opts for either a more recent reference period for FQA allocations or for a rolling reference period, are there quota stocks or categories of quota holder where the new base should not be applied, and the present FQA system should continue to determine allocations? Do you favour a different approach, for example, for *Nephrops*, whitefish and / or pelagic stocks?
- If allocations are re-based on a new reference period or there is a move to a rolling reference period, how might approaches to business development and lending evolve to ensure continued growth of businesses and regeneration of the fleet?
- Do you think that the Government should move away from a system of quota allocation based on allocations to individual licences, and opt instead for a new system based on the collective allocation and management of quotas?
- If you favour a move to a collective approach, how do you think such a system should be best organised?

Chapter 6: Transition to new systems

6.1 This chapter is about how the Scottish Government would propose to manage transition to new systems of fish quota allocation, for fishing vessels in the membership of a PO.

Consideration of consultation responses

6.2 The Government invites all those with an interest to respond to this consultation. The closing date for responses is 17 October 2014. During the consultation period the Government will discuss the issues raised with a range of interested persons and organisations. After the consultation closes, the Government will consider all the views offered and will then announce its response and plans for the future. It is planned at present to announce a Scottish Government response early in 2015.

Periods of notice and transition to new systems

6.3 The date at which new systems of allocation and management might commence will depend upon the nature of change.

6.4 Chapter 4 describes a number of changes that could be made that might improve the present FQA system, but which would not alter the essential basis on which allocations of Scottish fish quotas would be made. If the Government, after considering responses to the consultation, were to decide to adopt changes of this nature, the Government considers that it would be possible for these alterations to come into effect for quota year 2016. The Government would plan to work with Producer Organisations and other interested parties in the course of 2015 to finalise changes to quota management and other rules necessary for the operation of the adapted arrangements. In these circumstances, the Government would also plan that the present moratorium on the transfer of FQA units from Scottish licences would remain in place during 2015 but would be lifted on 1 January 2016.

6.5 Chapter 5 describes a number of options by which the basis on which fish quotas are allocated might be altered. If the Government, after considering responses to the consultation, were to decide to change substantially the basis on which fish quotas are allocated, there would commence a further period of consultation. The Government would not intend, in its response planned for early in 2015, to detail exactly how a new system of allocation and management would operate. Rather, the Government would note its conclusion that a more significant overhaul of the system was necessary, and would then enter into discussions and a further period of public consultation about the exact details of a new system. There would of course be many important details to be considered.

6.6 The Government has stated in the past that it will, in its consideration of whether to change the system of quota allocation, take into account the interests of persons that hold FQA units now, although the Government also notes that its publicly stated policy has always been that fish quotas are allocated each year at Ministers' discretion. The Scottish Government further underlines that it continues to reserve the right each year to allocate quotas on a basis other than the present FQA system.

6.7 Within the context of this general policy, however, and if the Government does decide to change substantially the basis on which fish quotas are allocated, it does plan to offer to holders of FQA units a notice period during which the present allocation system (as it is described in Scottish Quota Management Rules) would continue to operate. The Government considers that a period of 7 years provides a reasonable period of notice, during which present holders of FQA units will in general continue to receive allocations on

the same basis as they do now, and to have an opportunity during this to accrue benefits from their holdings.

6.8 Scottish Government Quota Management circular 1/2014, of 28 January 2014, gave notice of the Government's intention to alter the basis on which the quotas allocated to it by the UK Government are allocated. Accordingly, if the Government does decide to proceed with substantial change to the allocation method, it intends that the period of notice offered to present holders of FQA units will include the 2014 quota management year and the six that follow. It would be planned therefore that a new system of quota allocation would come into effect in 2021. It would also be planned that the present moratorium on the transfer of FQA units from Scottish licences would remain in place during the notice period but would be lifted on 1 January 2021. Of course, a new system of quota allocations may or may not make provision for individual allocations to licensees, which may or may not be transferable.

Continuing co-operation with UK Fisheries Administrations

6.9 This consultation is being conducted within the terms of the 2012 Concordat. The Scottish Government has and will continue to honour the terms of the various agreements spelt out within the Concordat as the consultation progresses. We will in particular agree with the other Administrations the expiry of the notice period announced in January 2014. It is possible of course that the moratorium could be lifted at different times in relation to different quota stocks, depending on the exact shape of any changes adopted. We will also consider with the other Administrations whether any proposals that emerge during the consultation might usefully be adopted on a UK basis, although we will of course also respect the desire of any of the other Administrations to maintain existing arrangements in relation to their licensees or indeed to make different changes that they consider are more suitable for their objectives and circumstances.

Consultation question

- If the Government decides to allocate quotas on a new basis or through a new system it is proposed that these changes will come into effect in 2021, and thus to offer a notice period of 7 years. Do you consider that this is a reasonable period?

Chapter 7: Quota allocation and management for inshore (10 metres and under) fishing

7.1 This chapter is about quota allocation and management for inshore (10 metres and under) vessels fishing in the Scottish 10mu 'pool'.

7.2 This issue is considered separately because fishing by vessels 10mu that are not in a PO have since 1999 been subject to a different allocation and management regime. The landings of vessels that are not PO members (known as the 'non-sector' in the case of over 10 metre vessels and the "10 metre and under" (10mu) fleet) are managed directly by the Scottish Government.

Background

7.3 The Scottish 10mu fleet, fishing inshore waters, encompasses a hugely diverse group of vessels, which together make an important contribution to the social and economic health of many coastal communities.

7.4 Despite this diversity, these vessels are, under present arrangements, managed in a generally uniform fashion. They fish against catch limits set by the Government, which may be weekly, monthly or quarterly. These limits are fixed having regard to a total amount of quota (the "10mu pool") determined by the Scottish Government and with the general aim of facilitating, wherever possible, either a full year or seasonal fishery in the quota stocks of interest (mainly *Nephrops* and mackerel). Seasonal fisheries are opened and closed following consultation between Marine Scotland quota managers, and local fishing representatives (including Inshore Fisheries Groups), with the broad objective of timing fisheries so as to maximise the value of the catch.

7.5 Licences of over 10 metre non-sector vessels may have FQA units attached to their licences, whereas 10mu licences do not. But neither group may "fish against" any individual allocation of quota.

Consideration of change

7.6 The current pool system has its attractions. Although a somewhat artificial barrier, it is well-established and understood by fishermen. The arrangements enable the Scottish Government to manage fishing opportunities for inshore vessels directly in consultation with relevant interests and in a broadly cost effective fashion. Providing uniform catch limits for all appropriately licensed 10mu vessels also maintains an important access point – with relatively low entry costs - into fishing for many new businesses. On the other hand, current arrangements have been criticised because they do not have flexibility to address either local needs, nor do they provide obvious routes by which 10mu vessels can build their businesses.

7.7 The Concordat does therefore provide an opportunity for the Scottish Government to consider how these arrangements might be improved to better pursue the Government's policy objectives, and in particular to consider how national quota management arrangements can be adapted to support the developing network of Inshore Fisheries Groups (IFGs) and the delivery of Fisheries Management Plans. Moves have been taken in this direction already, with the development of local allocations in the inshore mackerel fishery, which in some cases were managed locally (i.e. without catch limits in licences).

7.8 The Scottish Government would be open to developing the detail of potential management options with IFGs and others that might allow for wider operation of local quota pools. It would be important in such developments to ensure that any additional

administrative burden (whether locally or in the Government) was proportionate to the advantages secured, and that there existed strong support locally for these developments. IFGs will also wish to consider the implications of taking on a fisheries management function, whether informally or conceivably through the delegation of a Ministerial function.

7.9 The Government would also be interested in views about means by which there could be greater integration between the 10mu and PO sectors, and indeed whether those interested consider that there should continue to exist a divide within quota allocation and management. This issue was raised and options considered in the 2008 consultation, and the Government remains open to the consideration of options for change. The Government offers two possibilities for reform:

- First, it would be possible to adapt quota management arrangements so as to permit 10mu vessel owners to lease quota from POs, and thereby increase the catching opportunities for their vessel. At the moment, 10mu vessels cannot individually access additional quota to supplement their allocations. An approach on these lines (which might necessitate a system of individual vessel management) may help to improve viability and business flexibility, although concerns were expressed during the previous consultation that it may encourage an increase in effort in inshore waters; and,
- A second approach to improve integration would be to introduce an exit scheme whereby under 10mu vessels that wish to join POs might be permitted to take a “track record” (of FQAs or some other proxy) based on recent landings with them, thereby making the move into the sector more feasible. Such an approach could be attractive for those larger vessels reliant on quota species; help encourage inshore fishing businesses to develop and reduce administrative burdens; and, leave community pool arrangements focussed on smaller vessels targeting mainly non-quota species or perhaps fishing part-time.

7.10 The Government would be interested in alternative or additional proposals for improvements. One further alternative, discussed in the independent research on quota allocation commissioned by the Government, would be to integrate the 10mu (and non-sector) fleet into the present FQA system. It is an option to remove the present national pool altogether and allocate FQA units to individual vessel licences. It has been argued that an approach on these lines would enable fishing rights to be allocated to many individual vessel owners, and provide opportunities for some small family businesses to develop and grow. The 2008 consultation considered this option but ruled it out on the grounds that it would encourage a concentration in the holding of quota; result in the permanent loss of quota from some fishing communities; and, increase the cost of entry.

Consultation questions

- Do you favour retention of the present national 10mu pool, with periodic catch limits established in vessel licences, as the principal basis of allocation for Scottish quotas for 10mu vessels not in the membership of POs?
- In relation to allocations to the 10mu fleet, do you support the idea that the Government should develop the wider operation of local quota pools? If you do, what organisation(s) might be best placed to manage these pools?
- Do you wish in general for the Government to develop measures that encourages greater integration between the 10mu and PO sectors?

- Do you favour allowing 10mu vessels to lease quota from POs?
- Do you favour the introduction of an exit scheme whereby under 10mu vessels that wish to join POs might be permitted take a track record (of FQAs) based on recent landings?
- Do you favour allocating FQAs to individual 10mu vessel licences, and abandoning the pool system?
- What other improvements do you favour in relation to the allocation of quota to 10mu vessels?

Scottish Government Consultation Process

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically, Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed electronically to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses.

Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (V Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (e.g., analysis of response reports) can be accessed at: Scottish Government consultations (<http://www.scotland.gov.uk/consultations>).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- Indicate the need for policy development or review;
- Inform the development of a particular policy;
- Help decisions to be made between alternative policy proposals; or,
- Be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Responding to this consultation paper

We are inviting written responses to this consultation paper by 17 October 2014.

Please send your response with the completed Response Form to:

QM-ConsultationonScottishQuotas@scotland.gsi.gov.uk;

or,

Scottish Government quota consultation
Area 1-B (S)
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact John Robb, Head of Quota Management on 0131 244 6436.

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stake holder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces Scottish Government distribution lists, and is designed to allow stake holders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Response Form which forms part of the consultation questionnaire as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the same address as for your response.

Consultation on Scottish Fish Quotas: Response Form

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. You can download further copies of this form from the Consultation page on the Scottish Government website:

<http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/allocationofscottishquotas>

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode	Phone	Email

3. Permissions - I am responding as...

Individual / Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

CONSULTATION QUESTIONS

The status quo.

1. Do you favour retention of the present FQA system as the principal basis of allocation for Scottish quotas for vessels in the membership of POs? How do you consider that this approach will pursue the Government's objectives effectively?

Improvement to the status quo

2. Do you favour the establishment of 'stewardship rights' for holders of FQA units on Scottish licences?

3. Do you agree that FQA units on Scottish licences should be held only by persons and organisations that have a contemporary and positive link to fishing?

4. If you do agree with the need for a link to fishing, do you consider that the categories of persons and organisations proposed as having such a link is correct? Should there be further or different categories?

5. Do you favour the establishment of one or more reserves of quota that would be deployed to assist new entrants to the fishing industry?

6. If you favour the establishment of one or more reserves of quota for new entrants, what are your views about:

- How such a scheme might be organised;
- How and from where would quota be acquired for a national reserve; and,
- Who might be able to access the fund, and on what terms?

7. Do you favour allowing individual FQA units to be transferred from the licences of active fishing vessels?

8. If you are in favour of allowing such transfers, do you also favour controls on such transfers, such that units become available in smaller 'bundles', which might be easier for newer businesses to acquire? What are your views about the method described by the Government?

9. If you favour retention of the present FQA system, are there other improvements to the system, different to those described by the Government, which you consider would better pursue the Government's policy objectives?

10. Is there action that could be taken by the Government, properly, or by the industry, which might have potential to reduce leasing costs?

11. Are there steps that could be taken by the industry itself to improve the efficiency and transparency of the quota leasing market?

Options for new bases and systems for quota allocation

12. Do you consider that a new base or a new system for quota allocation is necessary if the Government's policy objectives are to be pursued effectively?

13. If you favour fundamental reform, but also consider that allocations to individual licences should continue, do you favour re-basing allocations to a more recent reference period or allocations based on a rolling reference period?

14. If the Government opts for either a more recent reference period for FQA allocations or for a rolling reference period, are there quota stocks or categories of quota holder where the new base should not be applied, and the present FQA system should continue to determine allocations? Do you favour a different approach, for example, for *Nephrops*, whitefish and / or pelagic stocks?

15. If allocations are re-based on a new reference period or there is a move to a rolling reference period, how might approaches to business development and lending evolve to ensure continued growth of businesses and regeneration of the fleet?

16. Do you think that the Government should move away from a system of quota allocation based on allocations to individual licences, and opt instead for a new system based on the collective allocation and management of quotas?

17. If you favour a move to a collective approach, how do you think such a system should be best organised?

Transition to new systems

18. If the Government decides to allocate quotas on a new basis or through a new system it is proposed that these changes will come into effect in 2021, and thus to offer a notice period of 7 years. Do you consider that this is a reasonable period?

Quota allocation and management for inshore (10 metres and under) fishing

19. Do you favour retention of the present national 10mu pool, with periodic catch limits established in vessel licences, as the principal basis of allocation for Scottish quotas for 10mu vessels not in the membership of POs?

20. In relation to allocations to the 10mu fleet, do you support the idea that the Government should develop the wider operation of local quota pools? If you do, what organisation(s) might be best placed to manage these pools?

21. Do you wish in general for the Government to develop measures that encourages greater integration between the 10mu and PO sectors?

22. Do you favour allowing 10mu vessels to lease quota from POs?

23. Do you favour the introduction of an exit scheme whereby under 10mu vessels that wish to join POs might be permitted take a track record (of FQAs) based on recent landings?

24. Do you favour allocating FQAs to individual 10mu vessel licences, and abandoning the pool system?

25. What other improvements do you favour in relation to the allocation of quota to 10mu vessels?

Overview of recent economic performance of Scottish fishing fleets

Over 10 metre fleet

The over 10 metre Scottish fleet targeting quota stocks is very diverse and has had varying experience over the recent past with some segments notably more successful than others in terms of financial performance, although all segments except Pelagic have experienced declining vessel numbers.

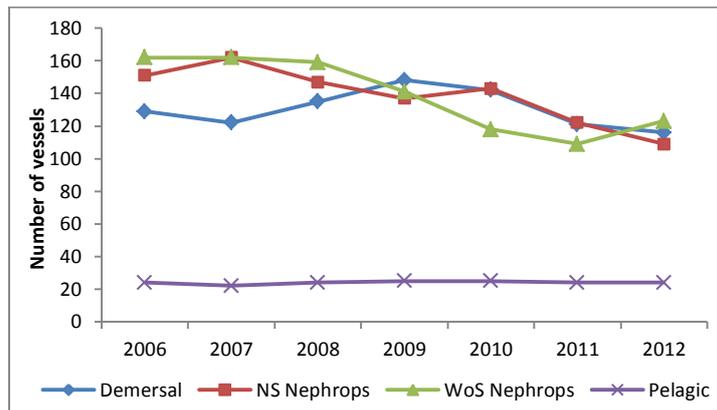


Figure 1: Vessel numbers in key segments of the Scottish fleet Source: Seafish

A brief description of aggregated fleet segments is provided below based on the standard vessel segmentation developed by Seafish.

Demersal Sector

In 2012 there were 116 demersal vessels fishing predominantly whitefish species, down from around 130 vessels in 2006. Vessels were on average 21m in length, 19 years old and operated for 165 days a year.

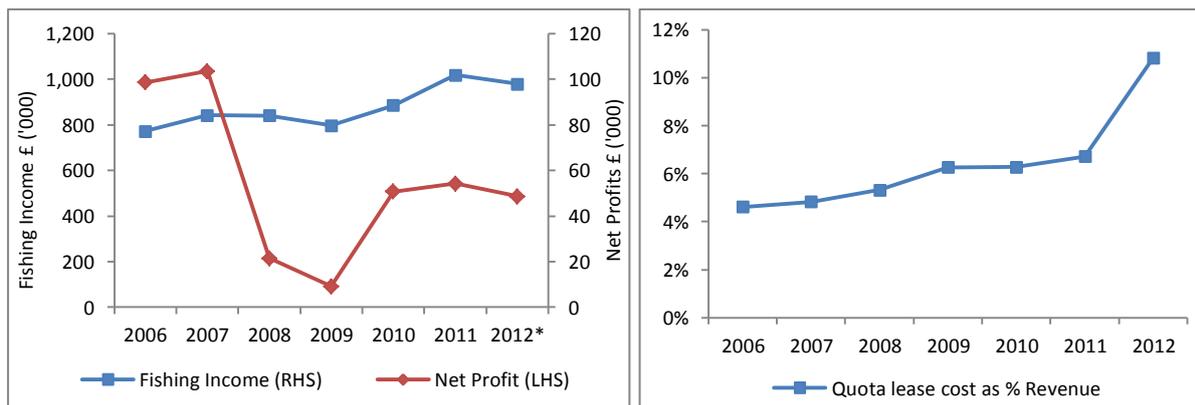


Figure 2: Mean income, profit and quota leasing costs as % of revenue from all vessels in the five key demersal sectors (<24m <300kw; <24m >300kw; seiner; pair trawl; and >24m). Source: Seafish annual fleet survey, *net profit value for this year was estimated by Marine Scotland from Seafish data.

Average fishing income per demersal vessel from the period 2006-2012 was £876,129 with operating profits of £119,330 and net profits of £55,159. Fishing income has increased throughout the period (Fig. 1) however net profits decreased significantly from 2007-2009

and then recovered somewhat between 2010-2012. This performance does not appear to be directly related to quota leasing costs which has been increasing steadily between 2006-2011 with a sharp increase from 7% to 11% of vessel revenue between 2011-2012. The increase in 2012 has resulted in quota costs doubling to £109,494 from an average of £50,944 per year between 2006-2011 per vessel.

North Sea *Nephrops* Sector

In 2012 there were 109 North Sea *Nephrops* vessels (mobile gear), down from around 150 vessels in 2006. Vessels were on average 20m in length, 21 years old and operated for 175 days a year.

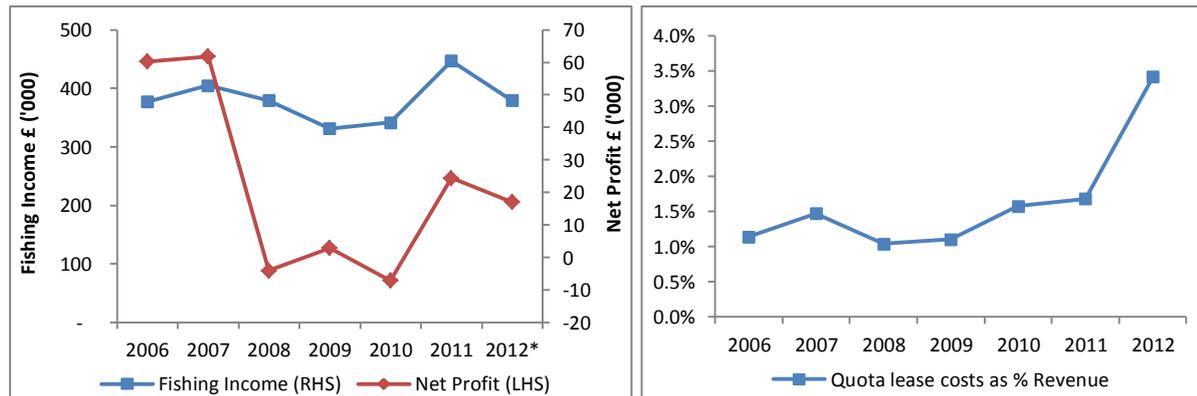


Figure 4: Mean income, profit and quota leasing costs as % of revenue per vessel from North Sea nephrop vessels. Source: Seafish annual fleet survey, *net profit value for this year was estimated by Marine Scotland from Seafish data.

Average fishing income per vessel from the period 2006-2012 was £380,046 with an operating profit of £53,745 and a net profit of £22,165. Fishing income decreased between 2007 and 2010, then increased in 2011 to return to 2008 values in 2012 (Fig. 2). This is mirrored in net profits with the exception of 2009 where net profits were higher than surrounding years. Quota leasing costs have remained between 1-1.5% of vessel revenue from 2006-2011 but increased substantially in 2012 to almost 3.5% of vessel revenue. This has resulted in quota costs going up to £13,810 from an average of £5,337 between 2006-2011 per vessel.

West of Scotland *Nephrops* Sector

In 2012 there were 123 West of Scotland nephrops vessels (mobile gear), down from around 160 vessels in 2006. Vessels were on average 15m in length, 32 years old and operated for 165 days a year.

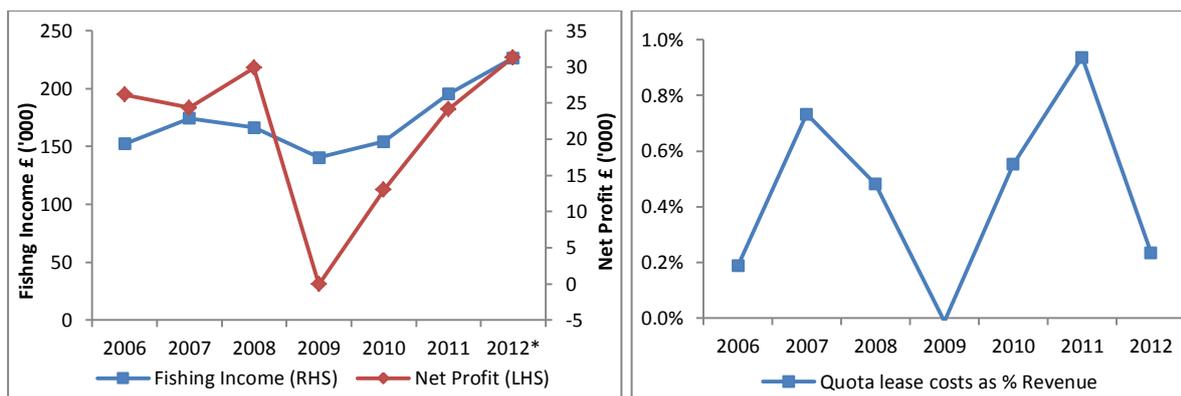


Figure 5: Mean income, profit and quota leasing costs as % of revenue from all West of Scotland nephrop vessels. Source: Seafish annual fleet survey, *net profit value for this year was estimated by Marine Scotland from Seafish data.

Mean fishing income per vessel from the period 2006-2012 was £172,737 with an operating profit of £32,225 and a net profit of £21,259. Fishing income remained between £150,000 and £175,000 between 2007 and 2010, then increased in 2012 with average income over £200,000 (Fig. 3). Net profits are difficult to interpret because of the significant drop in 2009 which then returned to profit from 2010 onwards. Leasing costs in 2009 dropped to 0% indicating the majority of WoS vessel did not lease any quota that year, yet profits were still poor. Quota leasing cost fluctuate between 0.2% and 0.9% of revenue equating to £292 up to £1,857 per vessel for other years over this period.

Pelagic Sector

In 2012 there were 24 Pelagic trawlers in the Scottish fleet. This figure has been largely static since 2006. Vessels were on average 66m in length, 11 years old and operated for 37 days a year.

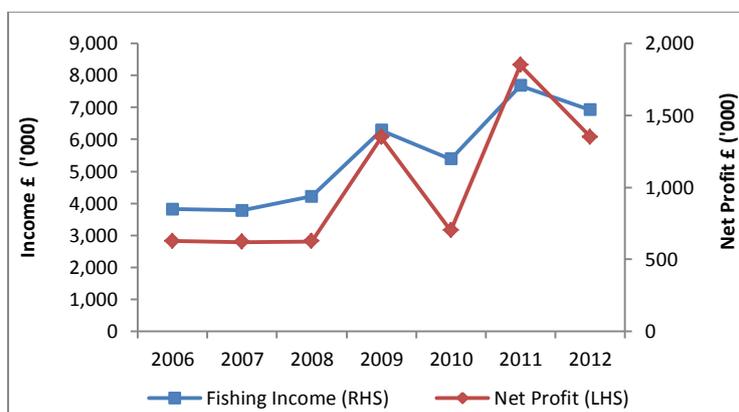


Figure 6: Mean income and profit per vessel for Pelagic vessels. Source: STECF.

Mean fishing income per vessel from the period 2006-2012 was £5,444,249 with a net profit of £1,016,890. Fishing income has increase year on year with drop in 2010 and 2012. This is mirrored in net profits have also increase in line with income with the exception of 2010 when profits dropped back to 2006-2008 values.

10 metres and under (10mu) fleet

In 2013, there were 1,100 active vessels in the 10 metres and under (10mu) category. They landed a total of 11,000 tonnes of fish and shellfish with a total value of £33m. Over one third (35 per cent) by value was from quota stocks, landed by just over 600 vessels (i.e. around 500 10mu vessels fished exclusively on non-quota stocks). The vast majority of the quota-stock landings were of *Nephrops*.

Around 400 vessels are classified as 'low activity' (value of landings less than £10,000) and these are not considered in the summaries provided below.

Mobile gears

In 2012 there were 60 10mu vessels using mobile gears (<10m demersal trawl and seines) in the Scottish fleet (excluding vessels classified as 'low activity') largely targeting *Nephrops*. These vessels were on average 9.3m in length, 23 years old and operated for 123 days in 2012.

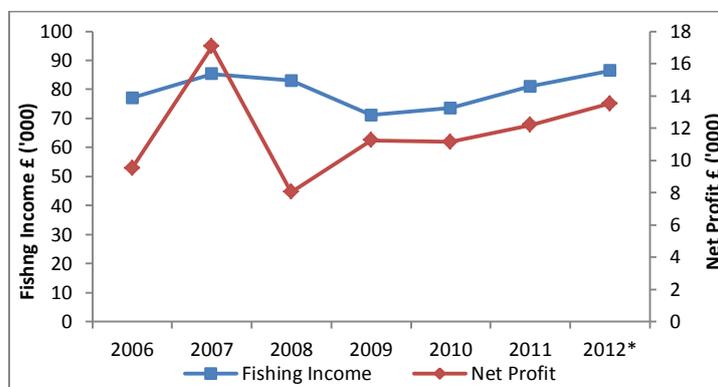


Figure 7: Mean income and profit per vessel for non-sector mobile vessels. Source: Seafish annual fleet survey, *net profit value for this year was estimated by Marine Scotland from Seafish data.

Mean fishing income per vessel from the period 2006-2012 was £79,644 with a net profit of £11,817. Fishing income dropped from 2007 to 2009, but has increased year on year to the value of £86,473 in 2012, the highest in recent years. After a peak in 2007, net profits saw a significant decline in 2008 to return at a steady rate to £13,509 in 2012.

Static gear fleet

In 2012 there were 672 10mu vessels using static gear (pots and traps) in the Scottish fleet (excluding vessels classified as 'low activity'). These vessels were on average 8m in length, 21 years old and operated for 127 day in 2012. They target a mixture of quota species (*Nephrops*) and non-quota species.

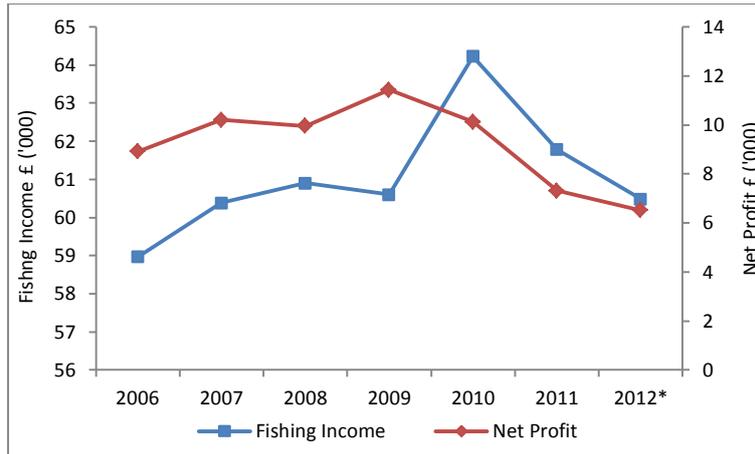


Figure 8: Mean income and profit per vessel for non-sector static vessels. Source: Seafish annual fleet survey, *net profit value for this year was estimated by Marine Scotland from Seafish data.

Mean fishing income per vessel from the period 2006-2012 was £61,050 with a mean net profit of £9,208. Fishing income has increased year on year with a large jump in 2010 followed by a substantial drop in 2011 and 2012. This is mirrored in net profits with the exception of 2010 where net profits started their decline whilst fishing income was at its peak.

Summary of 2013 FQA holdings on Scottish licences by category of holder

Percentage of units held by category of holder in specified quota stocks

		<i>Nephrops</i>	Pelagic	Whitefish
	Fishing vessel licensees	49.7	99.2	58.2
PO dummy licences	Community Quota scheme	7.8	0	7.9
	Fishing vessel licensee in membership of PO	16.4	0	7.4
	Fishing vessel licensee not in membership of PO	0.8	0	0.1
	Limited Liability Partnerships	0.3	0	0
	Parked licences	0.3	0	0
	Units held by PO for common benefit of members.	14.1	0.8	8.3
	Units held on behalf of corporate bodies.	0.6	0	0.1
	Units held on behalf of fishing vessel agents and owners	5.1	0	13.4
	Units held on behalf of private persons that are not fishing vessel licensees.	4.3	0	3.8
	Other.	0.1	0	0.8

In this table:

“Whitefish”: NS, WoS and Rockall: Cod, Haddock, Whiting, Saithe, Monkfish, Megrim, Hake, Ling, Plaice.

“*Nephrops*”: NS and WoS *Nephrops*.

“Pelagic”: NS Herring, WC Herring, WC Mackerel.



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