

A Subject Specific Concordat between
The Department for Environment, Food and
Rural Affairs

Marine Scotland

The Welsh Government and
The Department of Agriculture and Rural
Development (Northern Ireland)

("the Administrations")

On

Management Arrangements for Fishing
Opportunities and Fishing Vessel
Licensing In the United Kingdom

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1. This concordat contains a framework for enabling the four UK Fisheries Administrations to be given a greater degree of control over the management of their own commercial fishing fleets, within a UK wide quota and effort management and licensing system. It replaces any licensing and quota management arrangements contained in existing Concordats, in particular paragraphs 4 to 11 of the 1999 MAFF/Scottish Executive Fisheries Concordat and paragraph 55 of the Main MAFF/National Assembly for Wales Concordat. The arrangements will be subject to formal annual review between the Administrations as well as in the light of any changes arising from changes to the CFP rules and regulations.

2. As part of this concordat all Administrations agree to the following broad principles:

- a. all Administrations have a duty to respect any EU quantitative obligations and if they fail to do so will be responsible for any penalties payable in accordance with the provisions of the Control Regulation
- b. allocations of fishing opportunities to Administrations do not constitute a permanent split of UK opportunities
- c. Administrations may impose their own licence conditions, subject to these not discriminating unfairly against vessels from the other administrations;
- d. vessels, fixed quota allocation (FQA) units and licences will remain free to move between Administrations, subject to the possibility of "freezing" FQA units set out in paragraph 12;
- e. vessels will not be permitted to switch Administrations for reasons other than genuine changes in fishing patterns, the provision of services or home port; and
- f. there will be no new restrictions on PO membership;

Licensing and vessel nationality

3. The nationality of a vessel is determined by the port at which it is registered. With effect from 1 October 2012 Administrations agree that the issue of fishing vessel licences will be subject to new conditions and will be carried out in the manner described below:

- a. the existing Agency arrangements for the issue of licences will be terminated and each Administration will only issue licences to vessels registered in and administered from ports in its territory;
- b. individual Administrations will decide, on a case by case basis, whether any local licence restrictions should apply to the licences of vessels that opt to reregister as a result of the new licensing policy;
- c. fishing vessels will in general be administered from the district that they predominantly fish out of;
- d. Administrations may, with the agreement of other interested Administrations, license a vessel notwithstanding the fact that the vessel fishes predominantly out of a district in the territory of another Administration, where it appears to the Administrations that the vessel in question has a material and significant link to the Administration that proposes to license it

- e. any additional foreign owned vessels entering the UK fleet in future which do not habitually fish out of a UK port will be required to nominate an administrative port which will normally be that at which the vessel agent is based;
- f. vessels will be permitted to change administrative port only if the vessel genuinely moves its place of operation, e.g. as a result of sale. If the new administrative port is in another Administration's territory the vessel will have to be reregistered to a port in that territory;
- g. licences may be transferred from vessels registered in one Administration's territory to vessels registered in another Administration's territory;
- h. as a result of the above Administrations will no longer issue licences on behalf of other Ministers;
- i. the Administrations will not issue new licences to vessels which, before 1 October 2012, reregister to a territory other than that in which they are administered;
- j. the licences of vessels which at 1 October 2012 are not registered in and administered from the same territory will lapse and the ensuing entitlements will not be reactivated until the territories of registration and administration are aligned.

EU fishing authorisations

4. Where there are quantitative restrictions in EU law on the number of fishing authorisations that the UK may issue - e.g. to fish for albacore tuna – Administrations will agree on a case by case basis the way in which such authorisations will be divided between their vessels. There will be no change to the distribution of existing authorisations without the prior agreement of all four Administrations.

National fishing authorisations or other restrictions.

5. Administrations may introduce bespoke licensing conditions and restrictions for their own fleets. Where licences containing such devolved conditions/restrictions are transferred to vessels in another Administration, or vessels with a restricted licence genuinely move to another Administration, the receiving Administration may decide (including in response to a request from the transferring Administration) whether to continue to apply the licence restriction imposed by the previous Administration. Whether it does or not, if the licence subsequently returns to the original Administration that Administration may reimpose the original restriction.

Quota

6. The Administrations note that this Concordat involves an agreement to allocate amounts of quota to each Administration. Such allocations do not constitute a permanent split of UK fishing opportunities. From January 2013, the basis of allocation to Administrations of quotas allocated to the UK will, unless exceptionally agreed otherwise, be as set out below.

- a. For vessels whose licences are assigned FQA units, allocations will be calculated each year based on the FQAs attached to licences issued by each

- Administration at 1 November in the year prior to allocation, thus taking account of movements of FQAs between vessels;
- b. For under 10 metre vessels, allocations will be split between administrations on the basis of the vessels administered by each administration at 1 November each year. The methodology to determine the initial split of the pool is to be agreed between Administrations by no later than 15 October 2012.
 - c. Calculations will be based on the allocations granted to the UK after any post-Council swaps and any subsequent UK adjustments are carried out;
 - d. The quota allocations resulting from the above calculations will be attributed to each Administration based on the nationality of licences in the different quota management groups as set out in paragraph 3; and,
 - e. Each Administration will then be responsible for allocating and managing the resultant allocations and distributing them to groups for which it has nominally been given quota allocations, either in full or subject to any adjustments that it wishes first to make.

7. The general principles in the preceding paragraph are subject to the following additional rules.

The Sector

- a. There will be no new restrictions on PO membership. POs may therefore receive quota from more than one Administration and there will be no restriction on vessels licensed by one administration fishing against quota received by a PO from another.
- b. POs may account separately for quota uptake purposes to each Administration which issues it with quota allocation. Alternatively, POs receiving allocations from more than one Administration may opt to manage these allocations collectively. In such cases any underfishes or overfishes will be attributed to vessels from each Administration in its membership pro rata to the quantities of initial allocation issued to them. Where POs elect to manage quota collectively, Administrations will act in concert when necessary to 'close' fisheries to prevent over-fishing.
- c. Quota, once allocated to a PO or other management group, is within its control and it will be free to utilise it in any way authorised by Administrations' quota management rules, including in swaps with another PO of quota awarded by another Administration. However international trading of quota will remain subject to the agreement of the quota-issuing Administration and the MMO acting for the UK.

Under 10 metre pools

- d. Where under-10m pools continue to exist, vessels that move to another Administration will be permitted a share of UK quota based on a methodology to be agreed, as set out in paragraph 6.b, adjusted as necessary to take account of any reassignment of quota share that may have taken place under the previous Administration's management arrangements. The previous Administration will inform the new Administration of any necessary adjustment

at the time that the vessel changes administration. The new administration may limit acceptance of any such vessel into its pool arrangements to fish for stocks covered by its pool in the absence of the vessel obtaining an active pool licence for that Administration.

- e. Where a vessel fishing against these allocations changes administration in year it will take with it the quota value of its annual notional or actual allocation, less any landings that it has made up to that point. If for any stock its landings exceed that quota value it will for the remainder of that year be prohibited from landing that stock.

8. Administrations note that for some geographically defined and particularly local fisheries it is not appropriate to provide for transferability of fishing opportunities. In relation to Scotland, this would include the Area IVa 10mu handline mackerel fishery managed by Marine Scotland. Administrations will keep these restrictions under review.

FQA Units

9. Transfers of FQA units between UK fishing licences and entitlements will not be subject to any new restrictions, subject to the following.

10. Administrations agree to the establishment of a publicly accessible register of FQA holdings and transactions, aiming for launch during 2013. Administrations will co-operate in the development of this register, and will work with the fishing industry and other interested persons to devise methods to fund its development and maintenance.

11. The Administrations reiterate that FQAs do not provide any right to a share of UK quota. Administrations acknowledge nonetheless that FQA holdings involve at present a general expectation of receiving a share of UK annual quotas. Administrations also acknowledge that there is a trade in FQA units. This Concordat provides for Administrations to make annual allocations either in full, or by first making adjustments once it has received its allocated amount of quota. In providing for this possibility, each Administration acknowledges that any contemplation of allocation systems with different bases must take into account (in addition to other relevant factors which may be of equal significance) the interests of persons that have made investments in FQAs.

12. Administrations may give notice of their intention to alter the basis on which the quotas allocated to them by the UK Government are distributed. In such circumstances the Administration in question may temporarily prohibit the transfer of some or all of the FQA units from those licences under its jurisdiction until the expiry of the notice period, which will be agreed by the four Administrations. Unless agreed otherwise, this prohibition will only apply to the number and type of FQA units affected by the proposed alteration. The other Administrations will honour such prohibitions. Any FQA units withheld from individual licences as a result of such action will for the purposes of the annual allocation exercise be treated as belonging to the relevant Administration and quota deriving from those units will be attributed to that Administration in accordance with paragraph 6.

13. These rules are without prejudice to and must be read alongside Administrations' quota management rules

Management of Producer Organisations

14. Responsibility for ensuring that Producer Organisations comply with the EU recognition criteria will normally rest with the Administration that is responsible for the greatest part of the area specified in the PO's application for recognition in terms of Article 1 of Commission Regulation 2318/2001.

The economic link

15. Administrations will continue to include within their licences the same UK-wide condition relating to the economic link. Administrations will also cooperate in an urgent review of this condition to see whether there are ways in which it could be strengthened, drawing in particular on experience in other Member States. Any quota received by the UK under Option D of the economic link licence condition will be allocated to the Administration that is responsible for administering the vessel(s) in question. Administrations will then be free to distribute such quota to their fleet as they see fit.

Fishing effort

16. The following arrangements will apply to the management of fishing effort:

Cod Recovery Plan (EU Reg. 1342/2008)

- a. Annual effort allocations under the current EU cod recovery plan will continue to be distributed between Administrations on the basis of KW day effort contributed to each of the UK effort limits over the reference period 2004-2006 by vessels administered by them at 1 November each year. Distribution of any other effort allocations required by EU law will be subject to agreement between Fisheries Administrations on a case by case basis.

Western Waters

- b. The current effort allocations for demersal species, scallops and crabs contained in EU Regulation 1415/2004 will continue to be monitored on a UK basis. Management of any revised effort allocations arising from review of this regime will be subject to agreement between Fisheries Administrations on a case by case basis.

Penalties

- c. Any deductions imposed on the UK under Article 106 of EU Regulation 1224/2009 for overfishing effort allocations will be paid by the Administration(s) responsible for the overfish.

Fleet capacity

17. Administrations will not issue any new fishing licences except as already permitted in accordance with existing licensing rules. Any future proposals to make use of the headroom in the UK's current kW and GT targets to issue additional licences will be subject to agreement between the four Administrations.

18. Administrations will consult each other on any future decommissioning schemes that they intend to run to ensure that their objectives are not undermined.

Enforcement

19. The Administrations will enforce in full all conditions and restrictions contained in any vessel's licence, including any national ones inserted by another Administration.

Crown Dependencies

20. For the purposes of the issues covered by this concordat Crown Dependency vessels will be treated as part of the English fleet. Defra will lead on the negotiation of management arrangements with the islands which will be set out in a single UK/Island Fisheries Management Agreement for each island which will require the approval of all four Administrations.

Review

21. Administrations will meet annually to review the operation of the arrangements set out in this concordat.

UK Fisheries Administrations
2 May 2012