



By email:
English Producer Organisations
New Under Ten Fishermen's
Association
National Federation of Fishermen's
Organisations

10 March 2015

Dear Sir/Madam,

2015 UK and English Quota Management Rules – consultation outcome

I wrote to you on 23 December 2014 to invite you to send me your views on the draft 2015 UK and English quota management rules. My thanks to everyone who responded by the deadline of 20 January 2015. No responses were received after the deadline. I wanted to now take the opportunity to update you in respect of the responses received.

Response to consultation questions

Eight responses to the consultation were received and I have summarised the views expressed in the responses below as bullet points. Please note that the main points only are included below. However, every comment made was discussed between the UK fisheries administrations. These discussions fed into the finalising of the 2015 UK and English quota management rules, which can now be accessed at <https://www.gov.uk/government/publications/quota-management-rules>.

UK Quota Management Rules

Section 2.8 - Underpinning arrangements

Comment 1 - "West of Scotland Cod and Whiting are now by catch stocks for the UK so there should not be a need to include these as minimum share stocks for the non-sector."

Response 1 - Alter wording of paragraph, adding "When allocated at UK level..."

Section 2.16 – Faroese fishery

Comment 2 – "It would be useful to include that application of licences for the Faroese fishery should be submitted by the MMO only. This approach was agreed in 2014 after a number of separate applications were made by FAs rather than a single application by the UK administration."

Response 2 – UK FAs are discussing how to communicate with the Commission regarding Faroese vessel access lists in 2015 and beyond. The agreed process will be communicated to POs in due course.

Section 2.22 - Area IV and VI monkfish flexibility

Comment 3 – The existing method of allocation for monkfish flexibility should be revised, with flexibility being apportioned pro rata to initial allocations in line with other flexibility stocks and the EU methodology.

Response 3 – In discussion between the UK fisheries administrations (FAs) it was recognised that the allocation for this flexibility amount is different to that for the other stocks and doesn't follow the EU methodology. Marine Scotland considered that the current approach continued to meet the original policy objectives behind this arrangement. MMO pointed out that there are potential flaws in linking the allocation to a recent (previous 3 year) track record of landings of a Producer Organisation (PO), e.g. like a vessel sinking affecting a PO's track record and, hence, allocation. In the absence of consensus, FAs agreed that the current method should be retained.

Section 2.18 to 2.24 Arrangements for particular quota stocks and fisheries

Comment 4 - "The agreement from December council in 2014 makes reference to the assessment of haddock flexibility from North Sea to West of Scotland. We are fundamentally opposed to the approach, however, if the UK sees it necessary to implement this it must be done on an FQA basis to ensure additional flexibility to all vessels rather than additional opportunity to a chosen few."

Response 4 – No change needed as the 2015 Total Allowable Catch (TAC) and quota regulation does not include a new flexibility mechanism for these stocks.

Section 3.14 - Moving over-10-metre vessels between POs during the quota management year

Comment 5 - All vessel movements should be governed by PO1 forms, not just movements between POs. The Non Sector and Under ten metre (U10m) sector should not be allowed to accept any vessel into membership unless a PO1 form has been received from the releasing PO.

Response 5 – A PO1 form must be submitted when a vessel moves between POs but isn't required when a vessel leaves a PO to join a UK non-sector or under ten metre group. UK FAs are cautious of creating a rule that would give a PO total control over the movement of a vessel. UK FAs will consider any complex cases of vessel movement on a case by case basis with the parties concerned but it will be the responsibility of a vessel's PO to alert its "home" administration to any potential difficulties.

Section 5.4 - Domestic quota swaps and transfers

Comment 6 – "Swaps involving "of which" elements should be reviewed. Swaps involving only the "of which element" should not be authorised because it creates an imbalance when the "of which" element is landed because it is also deducted from the main stock. Any swap involving an "of which" element must be accompanied by the exact same amount of the main stock."

Response 6 – No change. The UK FAs have had confirmation from the European Commission that it is permissible to swap quota and flexibility elements separately. This helps maximise the value of quota and flexibility to the UK and removing it would place an unnecessary restriction on the movement of quota.

Section 8 – Banking

Comment 7 – This comment related to section 8.3(a) of the draft rules, which reads, “identify POs and FA allocation groups (in aggregate) whose end-year uptake is less than 100%.”

More clarity was requested about the quota uptake cut-off for a PO to qualify for banking.

Response 7 - Whilst the final quota uptake spreadsheet may show 100% uptake, the MMO’s statistics team checks the exact amount of landings to decide who qualifies. In practice as little as 0.001kgs of final quota could remain and the group would qualify for the relevant stocks. However, if uptake is exactly 100% by weight or higher then the PO would not qualify. It is up to PO’s to maintain accurate records and contact their FA if they are in doubt about qualifying for a particular stock.

The most detailed comments were submitted on the banking methodology. I have included summaries of some of them for information below. There were 6 responses in favour of changing the current method of distributing banked quota and 2 in favour of keeping it. One of the organisations in favour of change was United Kingdom Association of Fish Producer Organisations, which is an umbrella group of English, Welsh and Northern Irish POs.

In favour of change

Comment 8 – “Members feel most strongly that it would be simpler and fairer to revert to the previous system that was in place about 4 years ago.” Two PO’s gave the example of a member who wished to purchase 2014 North Sea saithe quota to bank and fish in 2015 was given. The PO complained that they had to advise their member not to do this due to the uncertainty about how much the PO would get back in 2015 banking.

Comment 9 – “...do not agree with the current methodology associated with the administration of banked quota. The current methodology reduces business security and does not allow for coherent planning of quota management as it reduces transparency. There is no incentive for prudent management due to the impossibility of forecasting and securing a fair return for tonnage banked. The PO had the opportunity to make international swaps for saithe at the end of 2014, to catch in 2015. Such a strategy would have been the chosen policy to mitigate the quota reduction for 2015. If such swaps had been undertaken, however, the PO would not have benefitted from the amount that it had banked but would have enabled competitors to benefit from the FPO quota used in the swap. The current methodology has, thereby, reduced the amount of fish available to the UK operators as a whole for 2015 overall...” “Demersal banking and borrowing mechanisms will require additional review for the 2016 fishing year due to the landings obligation. This introduces global inter annual flexibility as a tool to mitigate the negative effects of the landings obligation. For this to be useful in any way, both banking and borrowing must be based on the allocation of a group to enable business planning.”

Comment 10 – The respondent suggested wording similar to that in place in the 2010 UK quota management rules as follows: “For 2016 the banked quota, adjusted in the light of end year landings, will be distributed to those groups with uncaught quota for 2015. Where the sum of the groups' uncaught quota exceeds the amount banked, the latter will be apportioned between groups on the following basis:

1. Groups that under fished against their end of year allocations will be given banked quota equivalent to the extent of their under fish or 10% of their end of year allocations, whichever is the lower;
2. Any balance of banked quota will be apportioned between all groups which under fished pro-rata to the amounts of their under fishes in excess of 10%
3. Where the quota available to the UK from banking represents less than 10% of the UKs end of year quota, the 10% threshold used in 1 and 2 above will be correspondingly reduced.”

Comment 11 – “In general we believe the UK quota management rules should always reflect the methodologies used by the Commission when distributing allocations, flexibilities and banked quota to member states. As quota management is likely become more complex with the phased implementation of the discard ban, we would prefer the banking rule to revert to the pre 2011 methodology, as it provides quota managers with a simple, easily calculated methodology, enabling us to rely on a level of certainty over our anticipated allocations in the following year. The current methodology provides no control for quota managers attempting to maximise their allocations of quota for choke species and other small by catch stocks which will become ever more important to maintain target species fisheries.”

Comment 12 – “My second point concerns banking (and borrowing), or, more accurately, “quota flexibility”, which was introduced into the TAC regs some years ago. The way in which the UK allocates quota it receives from Europe isn't consistent with how Europe allocates it to Members States; therefore it's difficult to integrate the two systems and the allocations of “banked” quota in the UK is complicated particularly where there's a combination of “banking” and “borrowing” within the UK for the same stock. Up until now the UK's methodology for allocating banked quota has been accepted and POs have adapted to it; as far as I can recall, the system was changed about three years ago. However, the introduction of the “Landings Obligation” - of which “quota flexibility” is an integral and critical part - changes the scene dramatically; it means that under the current UK rules, UK POs and vessels will not be able to fully utilise “quota flexibility” which the Commission has been at pains to highlight will help fishermen deal with the landings obligation. Besides the obvious fact that “saved” quota will not be returned to the same PO under current UK rules, it's also unclear how the scenario where some POs want to carry forward quota to the next year and some POs want to draw down some quota from the following year will be accommodated.

Therefore the current UK methodology for allocating “banked” quotas is incompatible with the landings obligation and must be changed; the obvious solution is to revert to the previous methodology whereby quotas gained or deducted through the flexibility provision are attributed to the same PO on a tonne-for-tonne basis in the following year. POs should be able to catch up to the maximum allowed under the flexibility arrangements where this is more than their end-year allocation and have that tonnage automatically deducted from their allocation in the following year; similarly any “flexibility” under-fish should be added to their allocation in the following year.

To negate the activities of non-active quota holders, POs whose uptakes in relation to their *final* allocations is less than 80% would be excluded from the flexibility provisions.

Comment 13 – Reverting to the former banking distribution would give PO's more flexibility to maximise banking to the PO and so the UK using international quota swaps.

In favour of retention of current distribution arrangements

Comment 14 – “I suspect that most of those in favour of change (to banking) act more like quota traders than fisheries managers. The reason banking was introduced by the Commission was to allow the active fishing fleet the opportunity to tailor its activities to what was happening on the fishing grounds; not to allow quota traders to maximise their profits. This was further highlighted when the rules on banking for shared stocks were aligned with the Norwegian rules.” “...as far as I understand it remains the Government's position that management arrangements should encourage uptake wherever possible and not reward unduly those who do not fish. We remain of the opinion that the banking arrangements should reward those who catch the quota, but do not overfish their end year allocation. The current arrangements do to an extent succeed in achieving these goals and we see no reason to change them at this time. But if change were to be introduced we believe the system should be amended to favour those who catch. “There is, however, another reason why we think it would be a mistake to amend the Rules in any way other than our suggestion at this time and that is the imminent introduction of the Landing Obligation. In less than 12 months the so called Discard Ban will be introduced for some demersal species. This will be a major change and will have implications for fisheries management. The role played by quota and quota managers will come under scrutiny and it is by no means clear that the current FQA based system will cope with the requirement to land all catches insofar as some species are concerned. One thing is for sure and that is the active fleet will need access to all possible quota. As some of the landings will have no economic value the cry that will emanate from quota traders that quota can be leased will echo very badly. If Ministers want to retain an economic fleet, they need to ensure the costs imposed on fishermen are reduced wherever possible. There is no doubt the desire for change being mooted would increase costs and is, therefore, unacceptable.”

Comment 15 – “The principle of Quota Management is to maximise the uptake of the UK quotas. Therefore it should follow that Govt and industry make rules to ensure that we achieve maximum uptake where possible. The current rules governing which group receives Banking is based upon the principle that those groups which catch most and therefore need more quota, are the principle beneficiaries of Banking. There is no need to depart from that principle. Those seeking Banking based on FQAs are looking to be rewarded for “owning” quota units whether they catch the stock or not. I know of many fishermen who expect to receive Banked quota for a stock they never prosecute. This is completely wrong. Their intention is to build up more in year tonnage in order for them to make more money by leasing to those who are catching the stock. In some cases there are groups who have no intention of leasing or swapping quota to other groups with the sole purpose of ensuring that these more needy groups overfish and are penalised! There must be an incentive for quota to be transferred and utilised by those needing it most. The formula calculating Banking is based on “uptake” which provides the incentive to catch, swap or lease out quota in order to improve the “uptake index” of a group with excess quota.”

Response to comments 8 to 15 – in the absence of unanimous agreement between the UK FAs there will be no change to the UK banking method in 2015.

Marine Scotland set out the principles of maximising uptake behind the consultation in 2008 that led to the change in UK policy announced in Dec 2010 and brought in for the 2011 quota rules. Marine Scotland also didn't think that POs should be relying on banking in their operations as quota should be primarily for fishing, not banking, hence the driver behind the current methodology. They also thought that the issues raised on saithe could have been resolved in other ways.

The Department for Environment, Food and Rural Affairs (Defra) set out that the change was made in 2010 for good reasons, but experience has shown some unintended consequences such as uncertainty over the amount of quota to be received through banking and therefore difficulties managing fishing activity. The change has worked to the disadvantage of English PO and this must be addressed. The MMO supports going back to the old methodology.

Currently banked quota is apportioned to POs at UK level. There was discussion about how we could progress from the current impasse. Options included apportioning banked quota between UK FAs for each to determine a distribution method. It was highlighted that for this to work we would have to agree an apportioning method and that could be difficult.

In light of the strongly-held views around this particular matter, Marine Scotland suggested that another consultation on the banking rules during 2015 might be appropriate. UK FA's will consider having a consultation and update UK fishing groups by July 2015.

Defra's position is that the landing obligation has significantly altered the landscape, making it more important that banked quota goes to those who banked it under the landings obligation and that the current system leaves POs with too much uncertainty. If there is no agreement at UK level to help groups deal with the landings obligation, it may be necessary for England to develop its own approach for 2016. This position is supported by the recent Defra consultation on the demersal landings obligation.

2015 English Quota Management Rules

None of the consultation responses received suggested any changes to the draft 2015 English quota management rules. Therefore, the draft will be published as it stands as the final English rules for 2015.

Thank you again for your responses and if you have any queries please do not hesitate to contact me.

Yours faithfully



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