REVIEW OF THE LICENSING OF UK REGISTERED FISHING VESSELS

FUTURE CAPACITY PENALTIES

Report of a Joint Industry/Departmental Working Group

April 2004
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### Annexes

A **Current capacity penalties**

B **Licences and licence entitlements in issue, June 2003**
TERMS OF REFERENCE

1.1 On 16 March 2001 Fisheries Ministers announced their wish to move to a single capacity penalty which would cover both tonnage and engine power and invited the Working Group to consider the future arrangements. It was envisaged that these arrangements would take effect from 1 April 2003 and in view of the notice that was being given of the changes there would be no provision for pipeline cases.

1. In the event, industry members of the Group asked in October 2001 for further time to consider the proposed changes. Ministers agreed and on 29 October 2001 announced the postponement of the introduction of the new arrangements. In view of their desire to avoid pipeline cases they also undertook to give 18 months notice of the new regime.

1.3 In its third Report to Ministers in November 2002 the Group recommended that a decision on the level of penalty should be postponed until the results of further developments in fleet control measures, notably those arising out of the 2002 Review of the Common Fisheries Policy, were known. In the light of those developments, the Group was reconvened to consider the future level of UK capacity penalties.
MEMBERSHIP

2. The Group met twice in May and July 2003. The following people attended those meetings:

<table>
<thead>
<tr>
<th>Department</th>
<th>Name</th>
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<tbody>
<tr>
<td>Department for Environment, Food and Rural Affairs</td>
<td>Mr B Edwards (Chairman)</td>
</tr>
<tr>
<td></td>
<td>Mr P Boyling</td>
</tr>
<tr>
<td></td>
<td>Mr K Williamson</td>
</tr>
<tr>
<td>Scottish Executive and Rural Affairs Department</td>
<td>Mr R Weatherston</td>
</tr>
<tr>
<td></td>
<td>Mr I Fowler</td>
</tr>
<tr>
<td>Department and Agriculture and Rural Development</td>
<td>Mr D Martin</td>
</tr>
<tr>
<td>Northern Ireland</td>
<td></td>
</tr>
<tr>
<td>National Federation of Fishermen’s Organisations</td>
<td>Mr N Atkins</td>
</tr>
<tr>
<td></td>
<td>Mr B Deas</td>
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<tr>
<td></td>
<td>Mr R Casson</td>
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<tr>
<td></td>
<td>Mr P Trebilcock</td>
</tr>
<tr>
<td></td>
<td>Mr A McCulla</td>
</tr>
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<td></td>
<td>Mr J Portus</td>
</tr>
<tr>
<td>Scottish Fishermen’s Federation</td>
<td>Mr H Black</td>
</tr>
<tr>
<td></td>
<td>Mr H Morrison</td>
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<tr>
<td></td>
<td>Mr J Watt</td>
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<td>Mr P Nichol</td>
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<td></td>
<td>Mr A Tait</td>
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<td>Mr M Park</td>
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<tr>
<td>Northern Ireland Fishermen’s Federation</td>
<td>Mr R James</td>
</tr>
<tr>
<td>Secretariat</td>
<td>Mr K Porter</td>
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<td></td>
<td>Miss C Morris</td>
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SUMMARY OF RECOMMENDATIONS

3. The following recommendations reflect the conclusions drawn by industry members of the Group.

(1) Future capacity penalties where set should be based on tonnage and engine power.

(2) With immediate effect, capacity penalties on all licence transactions (transfers and aggregations) should be set at zero except for:

2.1) transactions to correct engine power, when a 20% penalty should remain payable on the additional VCU's and

2.2) transactions involving the aggregation of whitefish licences to license new pelagic trawlers under the pipeline arrangements announced on 17 December 1997, when a VCU penalty of 20% should be applied to the aggregation of two donor licences and 30% for three or more donor licences.

(3) The tonnage and engine power of recipient vessels should not exceed the combined tonnage and engine power of the donor vessels.

(4) The possible aggregation of whitefish licences with pelagic purser and freezer licences for the purpose of modernising or replacing existing vessels should be reviewed in mid-2004.

(5) A case for making suitable provision within the EU fleet structural management arrangements for the development of on-board processing facilities on fishing vessels should be drawn up and pursued with the European Commission.

(6) Category A, B and C licences should be maintained but reviewed periodically should circumstances change.

(7) There should continue to be no transfer of licences between under and over 10 metre vessels.

(8) There should continue to be no aggregation of under 8 metre licences onto over 8 - 10 metre vessels.
(9) There should be the following caps on the engine power of under 10 metre vessels licensed through aggregation:

- 8 – 10 metres: 125kW
- under 10 metres: 100kW

(10) Until 31 December 2005 there should no single licence transfer of pelagic trawler licences onto pelagic freezers or pursers.

(11) The 1,500kW cap on the aggregation of licences onto North Sea beam trawlers should remain.

(12) Only like licences should be aggregated together except in the case of:

12.1 aggregations to correct or uprate engine power when:

(a) licences without scallop entitlements may be aggregated onto licences with scallop entitlements without losing the right to dredge for scallops; and

(b) licences with beam trawl entitlements in either the North Sea or Area VII may be aggregated onto licences with beam trawl entitlements in both areas and authority to beam trawl in both areas retained;

and

12.2 the aggregation of Category C licences onto Category B licences when the right to fish for Category B stocks would be retained.

(13) Except in the case of those correcting or uprating engine power using the AFLI4 procedures, excess GT and kW on the donor licence(s) not required for the recipient licence should be surrendered.

(14) There should continue to be no disaggregation of licences.
INTRODUCTION

4. In its November 2002 Report to Ministers the Working Group made a number of recommendations concerning capacity penalties including the following:

4.1 For the future capacity penalties should continue to be used to address the impact of technological creep and associated increases in fishing efficiency. While still contributing to the overall constraints on fleet capacity their role in securing substantial reductions is likely to be modest.

4.2 Capacity penalties should in future be applied to tonnage and engine power only and not to VCU s but VCU s should continue to be recorded on the licence.

4.3 Fisheries Departments should set the level of capacity penalty in the light of further developments in fleet control measures, notably those arising out of the 2002 review of the Common Fisheries Policy. They should aim to set the level as low as possible consistent with the achievement of the objectives and for targets for the capacity of the UK fleet.

5. Following the CFP Review, new rules governing EU fleet capacity were set out in Council Regulation 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the CFP. The key components are:

5.1 global GT and kW reference levels for each Member State, based upon the sum of the end-2002 MAGP objectives;

5.2 capacity removed by public funding (i.e. decommissioning) to be deducted from the reference levels;

5.3 permitted increases in the tonnage reference level in the case of above-the-deck modernisation of vessels more than 5 years old;

5.4 entry/exit rules under which from 1 January 2003 the entry of new capacity must be matched by the withdrawal without aid of an equivalent amount of capacity.

6. In order to ensure compliance with these new rules Fisheries Departments wrote to the industry on 25 March 2003 announcing:
6.1 changes to the rules governing permitted increases to vessel capacity for modernisation purposes, and

6.2 withdrawal of the facilities available under MAGP IV whereby external waters vessels replacing existing vessels or exploiting new fishing opportunities could be licensed without full domestic licence cover.

THE LEVEL OF CAPACITY PENALTY

7. Current capacity penalties, including those announced but not yet in force, are set out at Annex A. The Group confirmed its earlier advice that capacity penalties should in future be based upon tonnage and engine power and not vessel capacity units (VCUs). However, the industry members of the Group considered that there was a strong case for moving to a zero capacity penalty. Following the recent changes in EU fleet capacity rules, in particular the replacement of capacity reduction targets under MAGP III and IV with a self-balancing entries and exits regime, there was no longer a need for capacity penalties to contribute towards capacity targets. Moreover, the industry was in a state of crisis with few building orders on the stocks. Removing capacity penalties would send the right signals by encouraging rather than penalising investment. No other member state had such an all-encompassing penalty regime nor penalised its industry for replacing ageing vessels with second hand vessels. This had disadvantaged the UK fleet as it was in constant decline compared to those of other member states. Technological creep was less of an issue because the potential increase in the efficiency of newer vessels was constrained by the impact of technical conservation measures. Capacity penalties also discouraged the provision of better crew accommodation and thereby indirectly contributed to the problems of crew retention. Further cuts in the UK fleet, if required, should be achieved through targeted measures.

8. A zero capacity penalty would be a radical departure from past practice. The present levels of penalty had contributed to a reduction in capacity of the UK fleet and had reflected Fisheries Departments' determination to tackle the structural problems facing the industry. On the other hand, industry members pointed out that the overall contribution made by capacity penalties to the reduction of the UK fleet had been limited (no more than 0.5% per annum) and that the new regime with zero penalties would continue to deliver small reductions in tonnage and engine power because in very few transactions would owners be able to align the tonnage and engine power on the incoming vessel with that of the donor vessel or vessels. But more significantly, zero penalties for the foreseeable future would be a powerful indicator of Fisheries Departments' commitment to a long-term future for the fishing industry.
9. The Working Group recognised that were the change to a zero penalty to occur in 18 months' time, there was a risk that licence transfers and aggregations would dwindle to a trickle. Moreover, those owners committed to licence transactions during this period might well feel aggrieved. At the same time, it would be unfair to allow those who had until December 2004 to correct their vessel engine power to benefit from a zero penalty when those who had already carried out the correction had paid a 10% or 20% penalty. Similar considerations applied to those who were looking to introduce pelagic trawlers into the fleet taking advantage of whitefish licences and the pipeline arrangements dating back to 1997. Consequently the Group recommended the immediate introduction of a zero penalty on tonnage and engine power but maintaining the existing regime in respect of engine power corrections and the introduction of pelagic trawlers under the 1997 pipeline arrangements. In making this recommendation, the Group emphasised that a zero penalty would not necessarily be permanent and that a substantive rate of penalty could be set at a future date should circumstances support such action. The Group also agreed that where engine power corrections were not completed by 31 December 2004, in respect of vessels registered before 10 January 2000, the existing 20 per cent penalty should apply to corrections undertaken after that date. It noted that any vessel failing to complete the correction of its engine power by 31 December 2004 would have its licence suspended from 1 January 2005 until the required correction was undertaken.

Recommendation

(1) Future capacity penalties where set should be based on tonnage and engine power.

(2) With immediate effect, capacity penalties on all licence transactions (transfers and aggregations) should be set at zero except for:

2.1 transactions to correct engine power, when a 20% penalty should remain payable on the additional VCU; and

2.2 transactions involving the aggregation of whitefish licences to license new pelagic trawlers under the pipeline arrangements announced on 17 December 1997, when a VCU penalty of 20% should be applied to the aggregation of two donor licences and 30% for three or more donor licences.
(3) The tonnage and engine power of recipient vessels should not exceed the combined tonnage and engine power of the donor vessels.

MEASURES TO ASSIST FLEET DEVELOPMENT

10. In publishing the Group's previous report the Fisheries Departments noted the possibility of Member States having greater flexibility to manage the composition of their fishing fleets following the review of the CFP although ceilings would almost certainly continue to apply to overall capacity. Against that background the Departments indicated that they were prepared to consider introducing greater flexibility into future licensing rules regarding the modernisation of pelagic freezer trawlers and vessels holding purse seine licences and the development of on-board processing facilities that significantly enhance the value of the landed product. Two of the six representations received in response to the Group's report (for which the deadline was 31 January 2003) asked that early consideration be given to these matters.

(A) Replacement of pelagic freezer trawlers and pursers

11. The Group noted that, as anticipated, the decisions taken by the December 2002 Agriculture and Fisheries Council offer some scope for greater flexibility in that fleet segmentation has been dropped. Member States are however obliged to take appropriate measures to ensure that their fleets remain within overall targets for tonnage and engine power. Officials reminded the Group that the ability to aggregate whitefish licences onto pelagic trawlers prior to 17 December 1997 and the arrangements for dealing with subsequent pipeline cases had been extremely advantageous to those in the pelagic industry concerned with the development of pelagic trawling. These advantages had not been available to pelagic freezer trawlers or other vessels holding purse seine entitlements. There had been difficulties in acquiring sufficient cover to replace or modernise these vessels, despite the introduction in 1998 of a time-limited scheme to assist the replacement or modernisation of pelagic freezer trawlers. The additional competition for licence capacity to undertake engine power corrections had been another factor.

12. Analysis of the 26 vessels currently holding pelagic freezer trawler or purse seine licences shows the following age structure;

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<tr>
<th>Age Structure</th>
<th>Pursers</th>
<th>Freezers</th>
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<tbody>
<tr>
<td>more than 20 years old</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>10 - 20 years old</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Less than 10 years old</td>
<td>10</td>
<td>3</td>
</tr>
</tbody>
</table>
13. The Working Group recognised that there was a case for giving the holders of pelagic freezer trawler and purse seine licences a time limited opportunity to replace existing vessels, partly utilising whitefish licences, noting that the previous scheme, which had expired in 2001, had been confined to freezer trawlers. Equally there was concern within the Working Group about the possible impact of a time-limited scheme on the supply and cost of licences within the whitefish sector, which could affect internal restructuring and modernisation and the flow of new entrants to the industry. It was also difficult to assess that impact at a time when Departments were active in reducing whitefish capacity through fishing vessel decommissioning schemes and a significant number of whitefish licence entitlements were being utilised under the 1997 pipeline arrangements for pelagic trawlers. It was understood that 2 pelagic trawlers recently entering the fleet exercised over 50 whitefish licence entitlements. On the other hand, it was pointed out that a time-limited scheme might provide for the greater part of any capacity to be covered by existing pelagic licences. Moreover detailed consideration of the composition of the pelagic fleet suggested that uptake under any scheme was likely to be limited although the facility would be important to individual vessel owners. Although disposed towards some form of time-limited arrangement to assist the replacement and modernisation of pelagic freezer trawlers and vessels holding purse seine entitlements, the Group recommended that further consideration be deferred to mid-2004 by which time current uncertainties regarding the supply of licences and the impact on the whitefish sector would be clearer.

Recommendation

(4) The possible aggregation of whitefish licences with pelagic purse and freezer licences for the purpose of modernising or replacing existing vessels should be reviewed in mid-2004.

(B) Onboard processing facilities

14. The Group noted that as a result of the new Community policy on vessel entries and exits, Fisheries Departments had had to withdraw the capacity concessions which had allowed vessels operating exclusively in external waters to be replaced without full licence cover. This concession had in part enabled provision to be made for the greater use of on-board processing facilities. The Group also noted that as part of the December 2002 fisheries package increases in tonnage were now permitted for certain vessel improvements, including those connected to improving product quality, for vessels older than 5 years where improvements occurred above the main deck.
15. The Working Group was supportive of the need to accommodate onboard processing, which was likely to become more prevalent, provided that this did not lead to an increase in fishing effort. Apart from the modernisation above deck of existing vessels over 5 years old and the ability to install auxiliary engines not connected to the main drive shaft, current structural measures under the CFP were not conducive to the development of on-board processing on fishing vessels. Given the lack of manoeuvrability it would be difficult to accommodate requests for additional capacity at a national level. Against this background the Working Group concluded that a case for providing for on-board processing should be drawn up and pursued with the European Commission.

Recommendation

(5) A case for making suitable provision within the EU fleet structural management arrangements for the development of on-board processing facilities on fishing vessels should be drawn up and pursued with the European Commission.

LICENCE CATEGORIES

16. Over the last 10 years the number of over 10 metre licensed vessels in the UK fleet has fallen from 3,564 vessels in 1993 to 1,668 vessels as at June 2003. With a further reduction in prospect, the Working Group was invited to consider whether there were grounds for easing the acquisition of licences and simplifying the current system by combining Category B and Category C or merging these licences with Category A licences to provide a single licence category.

17. The Group recalled that in earlier reports it had favoured the continuation of the existing categorisation because of

(a) the extra pressure that could be exerted on quota allocation, notably by non-sector vessels;

(b) the potential loss of Category B licences and fishing opportunities to communities based on the West Coast of Scotland;

(c) a reluctance to provide an uncovenanted benefit for those fishermen who had previously disposed of their Category A licences but who had continued to fish for non-pressure stocks in the 1980s.
Although the number of licences had diminished over time, the Group was of the view that the present situation was not such as to justify a merging of the main licence categories. Moreover the situation would be eased if, as the Working Group had recommended, Fisheries Departments adopted a zero capacity penalty for future licence transfers and aggregations. The Group therefore concluded that the present arrangements should be retained but reviewed from time to time should circumstances change.

Recommendation

(6) Category A, B and C licences should be maintained but reviewed periodically should circumstances change.

ASSOCIATED LICENCE CONDITIONS

18. Even with a zero penalty, the Group recognised that certain rules governing the transfer and aggregation of licences would be needed for fleet management purposes. These are set out below.

Recommendation

(7) There should continue to be no transfer of licences between under and over 10 metre vessels.

(8) There should continue to be no aggregation of under 8 metre licences onto over 8-10 metre vessels.

(9) There should be the following caps on the engine power of under 10 metre vessels licensed through aggregation:

- 8-10 metres  125kW
- under 8 metres  100kW;

(10) Until 31 December 2005 there should no single licence transfer of pelagic trawler licences onto pelagic freezers or pursers.

(11) The 1,500kW cap on the aggregation of licences onto North Sea beam trawlers should remain.
(12) Only like licences should be aggregated together except in the case of:

(12.1) aggregations to correct or uprate engine power when:

(a) licences without scallop entitlements may be aggregated onto licences with scallop entitlements without losing the right to dredge for scallops; and

(b) licences with beam trawl entitlements in either the North Sea or Area VII may be aggregated onto licences with beam trawl entitlements in both areas and authority to beam trawl in both areas retained;

and

(12.2) the aggregation of Category C licences onto Category B licences when the right to fish for Category B stocks would be retained.

(13) Except in the case of those correcting or uprating engine power using the AFL14 procedures, excess GT and kW on the donor licence(s) not required for the recipient licence should be surrendered.

(14) There should continue to be no disaggregation of licences.
### Annex A

**CURRENT CAPACITY PENALTIES INCLUDING ANNOUNCED CHANGES**

#### SINGLE LICENCE TRANSFERS

**WHITEFISH LICENCES**

(i) over 10 metres: 10%

(ii) 8 – 10 metres until 30 April 2004: Nil

from 1 May 2004: 10%

(iii) 8 metres or under: Nil

**PELAGIC LICENCES**

(i) onto pelagic trawler using any pelagic licence: 10%

(ii) onto freezer or purser using freezer or purser licences only: Nil

#### LICENCE AGGREGATIONS

**WHITEFISH LICENCES**

(i) of two licences 20%

(ii) of three or more licences 30%

(iii) to correct underdeclared engine power (until 31/12/04) 20%¹

(iv) to correct underdeclared engine power until 31/12/04 in respect of any VCU's from vessels between 10 and 18 metres placed on vessels over 18 metres 30%¹

(v) to adjust engine power by up to 35% 20%¹

(vi) to adjust engine power by up to 35% placing entitlements from under 18m vessels onto over 18m vessels 30%¹

**PELAGIC LICENCES**

(i) of two or more pelagic licences, of which one must be a freezer or purser licence, to replace or modify an existing pelagic freezer or purser vessel 10%

(ii) of two or more pelagic licences to introduce a pelagic freezer, purser or trawler vessel or to replace or modify an existing pelagic trawler 20%

(iii) to correct underdeclared engine power until 31/12/04 20%¹

(iv) to adjust engine power by up to 35% 20%¹

**Notes**

¹ Penalty is payable on additional VCU's only
Annex B

NUMBER OF MAIN LICENCE TYPES IN ISSUE AND ENTITLEMENTS HELD, JUNE 2003

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<td></td>
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<td>Over 10 metre vessels</td>
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<td>145</td>
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<td>Category A (pelagic trawler)</td>
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<tr>
<td>Category A (purser)</td>
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<td>Category A (freezer)</td>
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<td>Category B</td>
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<tr>
<td>Under 10 metre vessels</td>
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