Summary of Responses to Fisheries Administrations’ Consultation on the Allocation of West of Scotland and North Sea Nephrops Quota increases in 2006 and Fisheries Administrations’ response to the points raised

Introduction

1. The decision letter of 27 March indicated that Fisheries Administrations would publish a summary of responses to their consultation on the distribution of additional 2006 West of Scotland and North Sea nephrops quota. This paper is intended to provide stakeholders with an outline of the points raised in response to the consultation. Where appropriate, Fisheries Administrations consideration of the points, in outline, is also given.

Response to the consultation

2. We received 45 responses to the consultation. Two respondents did not express a preference for either option. Two respondents did not explicitly express a preference, although it is reasonably clear that they both supported option 2. One respondent did not support either option, but proposed two alternative options to provide a greater share of the quota increases to the non-sector and under 10 metre groups.

3. The remaining respondents fell into two main groups. Representatives of Producer Organisations and vessel agents preferred option 1. Representatives of the non-sector and under metre fleet (including individual vessel owners) expressed a preference for option 2.

4. Those who expressed a preference for option 1 did not make any specific points in favour of that option, but instead made points against option 2. Generally, those in favour of option 2 made specific points in support of that option.

5. Fisheries Administrations note that respondents’ interest in the issues raised appears to be influenced by their circumstances. For example, under 10 metre vessel owners have a very direct interest in the outcome of the consultation. Many Producer Organisations have a more limited interest, for example, one PO noted that it holds no quota and does not fish it.

6. A summary of points raised is set out below, grouped into those expressing support for each option.
Summary description of points raised

Those in favour of option 1

Point 1

7. Respondents felt that the increased nephrops quota should not be regarded as “additional” or “new” quota and noted that the EU Council of Ministers had not altered the quota management system. Respondents stated that there was no precedent for a departure from the Quota Management Rules. Respondents also stated that previous conduct of Fisheries Administrations indicated acceptance that monetary values attach to FQA units and that there is some form of title attaching to the holding of units. These observations were used to support respondents’ view that they had a legitimate expectation of the receipt of a certain proportion of UK quota allocated in accordance with the normal allocation arrangements. One respondent supported this view, saying that in the absence of indications to the contrary, it had set its quotas in accordance with the TACs set at the December Council of Ministers.

Point 2

8. Respondents expressed concern that quota levels for this stock may decrease in future years. They suggested that redistribution of the additional quota at this point would interfere with the ongoing commercial arrangements relating to transfer of quota.

Point 3

9. Respondents felt that the FQA system worked and was well understood. A change could destabilise the system and undermine relative stability. Respondents argued that departure from the Quota Management Rules created uncertainty in the trading of quota and that this might cause difficulties in respect of existing licensing and quota swap arrangements made between members of the industry. It was noted that financial institutions use FQA units as security for loans.

Point 4

10. Respondents believed that it is inappropriate to change the quota management arrangements, particularly during the course of the Quota Management Change Programme (QMCP). Such changes could prejudice the outcome of the programme.

Point 5

11. Respondents did not feel that the under ten metre fleet had contributed to the new stock assessment methods that had, in part, resulted in the increased quota. Another respondent disagreed and stated that the increased quota was based in part on landings data from the non-sector and under 10 metre fleet. The same correspondent noted that the increases were linked to effort reduction measures for over ten metre vessels.
Point 6
12. Respondents felt that the proposed allocation under option 2 should be based on better landings data and felt that this would arise from the introduction of Registration of Buyers and Sellers.

Point 7
13. Respondents were concerned that distributing extra quota to the under 10 metre fleet would send out a message encouraging more vessels to join the under 10 metre fleet. It was also felt that it would reduce the incentive to legitimise landings by buying or leasing quota or joining a PO. Respondents felt that the sector needed the quota to allow more vessels to land legally and noted that many vessels had bought FQAs to enable them to do so.

Point 8
14. One respondent expressed the view that the non-sector and under 10 metre fleet had exceeded their quota for the stocks in question last year. The respondent expressed concern that option 2 would indicate that illegal landings were rewarded by additional quota or be seen as legitimising unlawful activity.

Point 9
15. Respondents felt that some sector and non-sector vessel owners had benefited from previous decommissioning schemes and used the compensation and sale of FQA units to enter the under 10 metre fleet. They would then effectively benefit from a windfall in the form of additional quota under these proposals. Respondents also noted that the under 10 metre fleet had made no financial investment in quota and should not be rewarded with additional quota. It was felt that the under 10 metre fleet had become unsustainably large (and that Fisheries Administrations had allowed this to happen) and that POs should not pay (with quota) to support the fleet.

Point 10
16. Respondents felt that there is a potential conflict of interest in the dual role of Fisheries Administrations as managers of the non-sector and under 10 metre fleet quota and as UK Government furthering the interests of the UK fleet as a whole.

Those in favour of option 2

Point 11
17. Respondents claimed that sector vessels have not recorded full uptake of nephrops quota in previous years and that there was little prospect of a shortage of nephrops quota for these vessels. Therefore, the additional nephrops quota is not essential to sector vessels and likely to be traded for financial benefit. It was noted that quota from decommissioned sector vessels had remained in the sector.

Point 12
18. Respondents highlighted the importance of additional quota for the non-sector and under 10 metre fleet. Respondents felt that without the proposed addition, the shortage of nephrops quota is likely to result in early closure of the fishery. They noted that a relatively small amount of quota had a significant effect on the viability of the fleet. However, they did not feel that the amount of quota
proposed under option 2 was sufficient. Insufficient quota was felt to create an incentive to fish illegally.

**Point 13**

19. Respondents expressed the view that a shortage of quota for under 10 metre vessels may force them to join a Producer Organisation and noted that this involved high costs in securing “entry” quota. They did not feel that they should be forced to do so and noted that they would effectively have to start from scratch by obtaining new quota.

**Point 14**

20. Respondents highlighted the inability of vessels in the non-sector and under 10 metre fleets to obtain quota through trading for their own use.

**Point 15**

21. Respondents noted that their inability to build track record has left these sectors vulnerable to change.

**Point 16**

22. Respondents noted the importance of the under 10 metre fleet to the economic well-being of local communities. Some respondents noted the importance of supplies of quota to processors from the under 10 metre fleet. Respondents also felt that the under 10 metre fleet caused less environmental damage than larger vessels. Fishing with pots, and hence minimising discards, was quoted as an example.

**Summary description of Fisheries Administrations’ response to the points raised**

**Points raised in favour of option 1**

23. Fisheries Administrations note that respondents feel that they had an expectation of an allocation of quota in accordance with the normal allocation method.

24. The large increase in TAC this year has resulted from the Council of Ministers’ attention being drawn to evidence provided by the UK Government, acting on behalf of the UK industry as a whole. The change in assessment methodology is not likely to be repeated in future years. This means that the step increase in TAC for this year is likely to be a one-off event and unlikely to be repeated in the foreseeable future.

25. The quota management rules are administrative and a matter for Member States. Silence on the part of the EU Council of Ministers on quota management is therefore not relevant. It follows from this that changes in a Members State’s allocation arrangements do not affect the EU’s allocation arrangements.

26. Although one of the purposes of the Quota Management Rules is to achieve transparency and a degree of certainty in the allocation of quota, Fisheries Administrations must be able to make changes where this appears to benefit
the UK fishing industry as a whole. The Quota Management Rules make this clear and require Administrations to consult the industry before making such changes. Paragraph 20.2 of the Rules states “Fisheries Administrations reserve the right, after consultation wherever possible, to depart from the Rules should the need arise”. These two features of the Rules, and the fact that the Rules are well known to the industry, minimise uncertainty. FQA holders who enter into commercial arrangements or set quotas on the basis of the TACs set at December Council, do so in the knowledge that Fisheries Administrations may, on occasion, consult on a departure to the Rules.

27. Fisheries Administrations note that respondents feel that departure from the Quota Management Rules creates uncertainty in their commercial arrangements. Given that the amount of quota in question is around 0.6% of the total UK quota for these stocks, and that the sector fleet has generally not fished its full allocation, it is difficult to see how option 2 can interfere with ongoing commercial arrangements to a material extent. In view of the comments above on the relationship between UK quota management and the EU, Fisheries Administrations do not agree that the proposed changes can undermine relative stability.

28. Respondents argue that it is inappropriate to make changes during the course of the Quota Management Change Programme. The QMCP is not planned to be completed until 2008. It is not practicable nor proportionate to effectively freeze quota management arrangements in the meantime. This would not be in the best interests of the industry as a whole.

29. Some respondents questioned the role under 10 metre vessels played in securing the additional quota. In putting their case for an increase in the TAC for North Sea and West Coast nephrops Fisheries, Administrations did not draw a distinction between the under 10 metre and over 10 metre fleets. The case was based on evidence of the greater availability of the nephrops stock than reflected in TACs that had been set previously. To make this link would imply a concept of “earning” quota allocations. The respondents’ claim that increases in the quota for these stocks is linked to a reduction in effort is factually incorrect.

30. Respondents questioned the basis of the quota allocation calculations. Whilst, it may be true that Registration of Buyers and Sellers may provide new landings data, it will take some time to see the full effects of this. Fisheries Administrations are of the view that it does not seem reasonable or practical to wait for that.

31. Some respondents questioned the movement of vessels between the sector and under 10 metre fleets and incentives. The long term imbalance between recruitment to the under 10 metre sector and quota availability is an ongoing issue. The action being considered through this consultation aims to address the quota imbalance in the short term. Longer-term solutions will be considered under the Quota Management Change Programme and in the context of licensing policies.

32. One respondent expressed concern over possible unrecorded landings. It appears that the respondent has misinterpreted the figures in the consultation letter. These do not indicate illegal landings. This, along with the fact that the non-sector and under 10 metre fleet generally records a high uptake of these stocks supports Fisheries Administrations’ view that, notwithstanding efforts by
Administrations to supplement allocations in-year through quota swaps, these groups require additional quota.

33. Some respondents felt that vessel owners leaving the sector through decommissioning their vessel and subsequently joining the under 10 metre fleet would benefit from a windfall gain. Fisheries Administrations do not believe that the source of a vessel owner’s funding in buying an under ten metre vessel is relevant. Vessel owners that entered the under ten metre fleet, in common with vessel owners that remain in the sector and non-sector, made a business decision to do so and accepted that the availability of quota can decrease as well as increase and that they could not subsequently obtain more quota themselves. As noted above, the long-term future of the quota management arrangements for the under 10 metre fleet will be considered under the Quota Management Change Programme and in the context of licensing policies.

34. The dual role of Fisheries Administrations was raised as a potential conflict of interest. Fisheries Administrations exercise their duties with objectivity - consultation on change is one way of ensuring that well informed decision making processes are undertaken. From a public policy perspective, Fisheries Administrations have an obligation to manage quotas in order to balance the various interests of the UK fleet for benefit of the UK as a whole. The consultation was carried out to address what is fair and proportionate in this specific case.

35. Some respondents claimed that the additional quota is not essential for sectoral vessels. Fisheries Administrations note that while this was not the case for North Sea Nephrops last year (due, in part, to specific instances of over-fish by some groups), it has certainly been so in previous years when the sector did not achieve full recorded uptake of either the North Sea or West Coast nephrops stocks. In the case of West of Scotland Nephrops, an uptake of 83% was recorded in 2005 (a recorded underfish of over 2,100 tonnes), with a similar pattern of under utilisation in previous years.

36. The importance of the small amount of additional quota proposed for the non-sector and under 10 metre under option 2 was emphasised by respondents. Fisheries Administrations believe that without the redistribution proposed under option 2, the amount of available quota is not likely to be sufficient to meet the requirements of the non-sector and under 10 metre fleets that fish the stocks in question. Insufficient quota to meet normal fishing patterns will increase incentives for non-compliance with catch limits and/or increase the risk that fisheries will need to be closed before the end of the fishing year. Fisheries Administrations note respondents’ view that option 2 does not make sufficient additional quota available, but believe that the additional amount is the minimum required and that this is a reasonable and proportionate approach.

37. Fisheries Administrations can, and do, make use of the swap and other arrangements to secure extra quota in-year for the non-sector and under 10 metre fleet. However, opportunities to do this are limited by the amount of quota held by Administrations for the benefit of this fleet. Last year, Fisheries Administrations acquired some 234t of North Sea nephrops and around 240t of West of Scotland nephrops for the non-sector and under 10 metre fleet. A
significant proportion of this was through quota contribution made under the economic link arrangements. Administrations believe that it will not be possible to obtain sufficient quota through these mechanisms alone this year. The availability of a substantial increase in nephrops quota allows Fisheries Administrations to achieve a reasonable balance between the needs of the different UK fisheries groups as a whole.

38. Fisheries Administrations note that pressure to join a PO, and the attendant costs of doing so, is an additional outcome of a lack of quota. This is an issue best considered through the Quota Management Change Programme.

39. Some respondents noted the inability of the non-sector and under 10 metre fleet to obtain additional quota for the use of individual vessels and build a track record. Fisheries Administrations recognise there is an issue. In the short term, option 2 would help to address this issue. Longer term issues surrounding the future of the under 10 metre and non-sector fleet will be reviewed in depth through the Quota Management Change Programme and in the context of licensing policies.

40. Fisheries Administrations note the view that the under 10 metre fleet has an important effect on local economies and create less environmental damage. However, this is not a material factor in the decision taken.

Other points

41. Some respondents put forward suggestions on alternatives to either option 1 or 2. In summary these were:

- quota should be allocated on the basis of FQAs held on active licences rather than dummy licences;
- quota should be allocated according to 2005 landings before applying a percentage increase;
- quota should be allocated on the basis of a percentage sector share based on 2006 landings to date;
- if option two were to be selected, days at sea controls should be introduced for under 10 metre vessels;
- one respondent felt that if there was a need for additional quota for the non-sector and under 10 metre fleet, then there should be a reallocation later in the year.
- one respondent suggested that under 10 metre vessels should be allowed to lease nephrop quota from POs;
- one respondent stated that non-sector and under 10 metre vessels could join a Producer Organisation. Two others suggested Fisheries Administrations should encourage vessels to do so; and
- there should be a decommissioning scheme for 9 to 10 metre vessels.

42. Fisheries Administrations note these suggestions. However, they are either not within the scope of the current quota management arrangements or represent
longer-term solutions that are outside of the scope of the present consultation. That said, some of these suggestions may be taken forward either within the Quota Management Change Programme or in the context of ongoing review of the UK Quota Management Rules.

43. With regard to the suggestion to reallocate quota later in the year, this is within the scope of the present system. However, Fisheries Administrations feel there is a need to act now in relation to the problem of insufficient quota for the non-sector and under 10 metre fleet.

44. Some respondents made general points about the proposals. In summary, these were:
   - there should have been a consultation before the event rather than apply a different methodology retrospectively;
   - the reasons for change had not been substantiated;
   - one respondent objected to the principle rather than on the basis of the amount of quota involved; and
   - there was no connection between the stock assessment method, the volume of the increase and the change proposals.

45. Fisheries Administrations note these points but do not feel they have a bearing on the decision made.

FISHERIES ADMINISTRATIONS

March 2006