

**SEAFOOD**

**Cecil Beamish**  
Assistant Secretary General

**Aquaculture and  
Foreshore Management  
Division**

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**Marine Programmes  
Division**

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**Marine Engineering  
Division**

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**Sea-Fisheries  
Administration Division**

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**Sea-Fisheries Policy &  
Development Division**



**Cecil Beamish, Assistant Secretary General**

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**Responsible for the following Divisions**

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## AQUACULTURE AND FORESHORE MANAGEMENT DIVISION (AFMD)

Head of Division: John Quinlan, Principal Officer

The efficient and effective management of Aquaculture Licensing and Foreshore Licensing in respect of Aquaculture and Sea Fishery related activities.

### Functions of Aquaculture & Foreshore Management Division

The remit of AFMD is largely regulatory in character. Its core responsibilities are:

- Licensing and regulation of Aquaculture in accordance with the Fisheries (Amendment) Act 1997 as amended and applicable EU legislation.
- Management of the foreshore through a system of leasing and licensing in respect of Fishery Harbour Centres and aquaculture/fishery related issues. All other foreshore licences/leases are the responsibility of the Department of Housing, Local Government and Heritage (DHLGH).

These responsibilities also engage the Division in extensive policy development work, legislative initiatives and legal matters arising essentially from case work.

### Foreshore

Foreshore is defined as the land and seabed between the line of high water of ordinary or medium tides and the 12 nautical mile territorial sea limit. It also includes tidal rivers and estuaries. The main governing legislation in this area is the Foreshore Act, 1933. The bulk of the foreshore is State property within the meaning of the State Property Act and ownership lies with the Minister for Finance although there are some parts of the foreshore in private ownership. AFMD manages the Foreshore leasing and licensing in respect of aquaculture and

fishery related issues and also performs a role in respect of foreshore licensing in Fishery Harbour Centres. All other foreshore licences/leases are the responsibility of the Department of Housing, Local Government and Heritage (DHLGH).

## **Aquaculture**

Aquaculture includes the culture or farming of fish, aquatic invertebrates, aquatic plants or any aquatic form of food suitable for the nutrition of fish. Land-based aquaculture may also require planning permission and a discharge permit from the relevant consenting authority.

Under Section 6 of the Fisheries (Amendment) Act, 1997, it is illegal to engage in aquaculture without an appropriate Aquaculture Licence.

Licences are granted only following full consideration of the likely effects on the environment of the proposed operations, and are granted by the Minister subject to specific terms and conditions.

The Department considers all applications for marine based aquaculture licences in accordance with the provisions of the following legislation:

Fisheries (Amendment) Act 1997,

Foreshore Act 1933,

EU Habitats Directive of 92/43/EEC,

EU Birds Directive 79/409/EEC,

Consolidated Environmental Impact Assessment Directives 2014/52/EU.

The licensing process involves consultation with a wide range of scientific and technical advisers as well as various statutory consultees. The legislation also provides for a period of public consultation.

Licences are generally granted for a period of 10 years.

### **Key Issues**

- Aquaculture Licensing Backlog
- Aquaculture Licensing Review Report
- Shot Head Licence Application
- Sea Lice Controls
- Finfish licence renewal applications and outstanding Environmental Impact Statements
- Ballyness Bay
- Lough Swilly
- Wexford Harbour
- Cultivation of Seaweed
- Marine Planning and Development Management Bill

### ***Aquaculture Licensing Backlog***

The major complaint from aquaculture farmers in relation to licensing relates to the backlog that developed in the processing of licence applications in recent years. The background to this backlog is that in 2007 the European Court of Justice (ECJ) issued a negative judgement against Ireland for breaches of the EU Birds and Habitats Directives. A large element of the judgement concerned a failure by the State to put in place a system for data collection, definition of scientific interests and adequate assessment of aquaculture licence applications in NATURA 2000 areas. At the time of the ECJ case national legislation was availed of to ensure that fish farmers operating under pre-existing licences and who were seeking renewals could continue

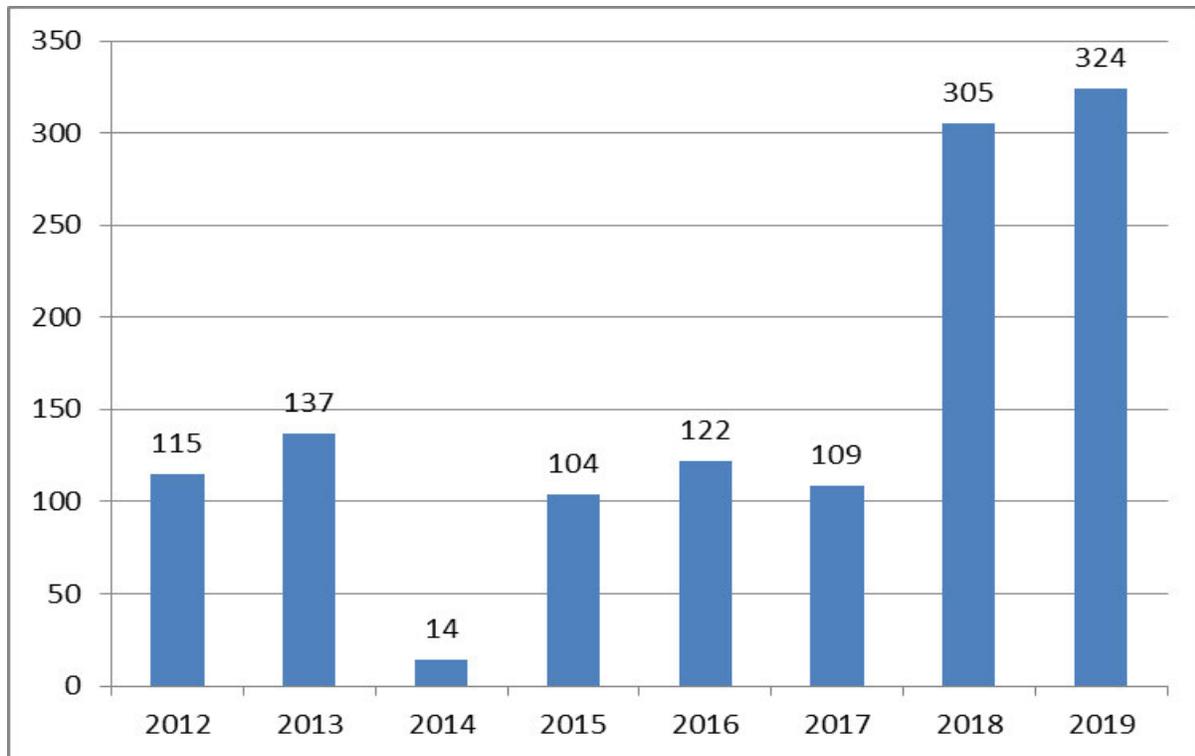
to operate under those licences until a determination could be made on their renewal applications in compliance with the NATURA 2000 Directives.

In the negotiations to address the ECJ judgement and to enable aquaculture to continue in NATURA 2000 areas in the interim a process was agreed with the EU Commission and this is being implemented. The process includes data collection, the setting of Conservation Objectives by the NPWS, identifying the scientific interests to be protected in the bays, carrying out of Appropriate Assessments of the licence applications against those scientific interests and appropriate licensing, taking account of, among other things, NATURA 2000 requirements.

The production of these Appropriate Assessments has been resource intensive and very time consuming not least because of tidal cycles and seasonality issues in relation to data gathering on bird migrations and other environmental events.

The work involved multiple survey events carried out by a range of contractors. Profiling of aquaculture activity was carried out for all designated bays in order to define the likely interaction between aquaculture activities and conservation features. All of this preliminary work to prepare the foundation for the consideration of licence applications went on from 2009 onwards.

Reflecting the priority attached to the elimination of the licensing backlog by industry representatives, in 2017 the Department put in place a two year programme to eliminate the backlog of shellfish licence applications. This programme envisaged the achievement of 300 licence determinations in both 2018 and 2019. As illustrated in the bar chart below the Department has made over 1,200 licensing determinations since 2012. The Appropriate Assessments started to become available from 2011 which resulted in an increase in licence determinations under the new AA-based system from 2012. The reduction in licence determinations in 2014 resulted from a delay in the receipt of Appropriate Assessments which were delayed due to the availability of scientific data.



**Figure 1: Aquaculture Licence Determinations 2012 - 2019**

Over 1200 licence determinations have been made since 2012, with 305 and 324 licence determinations achieved in 2018 and 2019 respectively.

### **Aquaculture Licensing Review Report**

In December 2016 an independent Aquaculture Licensing Review Group was appointed by the Minister to review the process of licensing for aquaculture and its associated legal framework. The report of the Licensing Review Group was submitted to the Minister in May 2017.

The Review Group carried out a detailed investigation of the existing aquaculture licensing process, undertook comprehensive stakeholder consultation and examined comparative national and international consent systems to determine best practice for managing a complex licensing process in a transparent, environmentally appropriate and legally robust manner.

Since receiving the Report of the Review Group, the Department has engaged in detailed consideration of the recommendations set out in the Report with a view to their implementation, having regard to the legislative, environmental, technical and public interest issues that arise. The Department has also engaged closely with industry representatives and relevant State Agencies with a view to implementing the recommendations in the Report, having regard to the legislative, technical and public policy complexities involved.

### ***Shot Head Licence Application***

An application by Mowi (previously Marine Harvest Ireland) for an aquaculture licence for the cultivation of finfish near Shot Head in Bantry Bay was received by the Department in 2011. The application and its accompanying Environmental Impact Statement were considered under the provisions of the 1997 Fisheries (Amendment) Act and the 1933 Foreshore Act. The decision to award the licence was made by the Minister in September 2015.

The legislation provides for an appeal of the Minister's decision to the independent Aquaculture Licences Appeals Board (ALAB). ALAB notified the Department that fourteen appeals were received. In conducting the appeal ALAB held two separate Oral Hearings. The latest information from ALAB is that they expect to be in a position to reach a decision on the appeal by 31<sup>st</sup> December 2020.

### ***Sea Lice Controls***

Sea lice monitoring and control on finfish sites is managed by the Marine Institute on behalf of the Department. The lice monitoring and control programme in place in Ireland is comprehensive and transparent with all farms inspected 14 times per annum by independent inspectors from the Marine Institute, acting on behalf of the Department. The results are circulated to all interested parties monthly and published annually. The Irish monitoring and control programme is unique in that it is completely independent of industry and the full results are published. It is comprehensive in that all farms and all sites are inspected.

The protocols for the sea lice monitoring and control programme are more advanced than those operated in other jurisdictions for the following reasons:

- The inspection regime is totally independent of the industry.
- Data obtained as a result of inspections is published and made widely available.
- Treatment trigger levels are set at a low level.

The Marine Institute in conjunction with the Department are currently conducting a review and update of the Monitoring Protocol dealing with the sea lice monitoring and control programme in Ireland. The review will ensure that the protocol in place continues to reflect international best practice and is expected to be completed in 2020.

### ***Finfish licence applications and outstanding Environmental Impact Statements***

The Department has 37 finfish licence applications on hand (new and renewals) and has taken concrete steps to address this licence application backlog and these measures will intensify significantly in 2020. In this regard it should be noted that the Department has formally requested finfish operators to submit Environmental Impact Statements in respect of their licence renewal applications. The submission of Environmental Impact Statements is mandatory in the case of salmon farming. This request issued to all operators in December 2018 and it specified the deadline for submission of the necessary documentation to be 30 September 2019. In July 2019 the Minister extended the deadline for submission of the Environmental Impact Statements to 31 March of this year. This was in response to indications from industry that meeting the deadline would be and continues to be challenging. A further extension of the deadline to 31<sup>st</sup> December 2020 was approved by the Minister earlier this year.

As of now the initiative lies with finfish operators to respond to the Department's request. This would seem to indicate that the pace of progress being set by the Department is appropriate and in fact reflects the priority the Department attaches to achieving closure on this important

issue. It also demonstrates that the industry as a whole is fully aware of the complexities involved in the licensing process.

Currently, the operators in question continue to operate their salmon farms under the provisions of Section 19A(4) of the 1997 Fisheries Amendment Act. This effectively allows them to continue to operate (after the expiry of their aquaculture licence), subject to the terms and conditions of their original aquaculture licence pending the determination by the Minister of their renewal application.

### *Ballyness Bay*

In November 2019 the Minister made a number of determinations in relation to aquaculture licence applications in Ballyness Bay. These Ministerial determinations are currently the subject of appeals to ALAB. The applications have attracted a degree of controversy in the local area. As the applications are currently under appeal to ALAB the Department would not normally comment on them until the conclusion of that process.

### *Lough Swilly*

There is an ongoing Judicial Review against the Department and ALAB following decisions to grant aquaculture licences in the Lough. This case stems from a Ministerial Decision of 30 November 2017 to grant a renewal/variation of aquaculture licences to Lough Swilly Shellfish Growers Co-operative Society for seven sites in Lough Swilly, Co. Donegal. The overall footprint of the sites covered by the original licence was reduced from in excess of 2000 hectares to 450.25 hectares for a number of reasons including the requirement to avoid the overlap with wild oyster beds. The decision of the Minister was appealed by Lough Swilly Wild Oysters Society to ALAB. ALAB's decision of 19 February 2019 upheld the decision of the Minister. As the judicial review is ongoing the Department would not normally comment until the conclusion of these proceedings.

### *Wexford Harbour*

Ministerial decisions have been made in respect of a number of aquaculture licence applications for Wexford Harbour. ALAB has notified the Department that it has received appeals in relation to a number of these decisions. The decisions are also currently the subject of Judicial Review proceedings. The Department would not normally comment on these applications while these proceedings are ongoing.

### *Cultivation of Seaweed*

The Department of Agriculture, Food and the Marine (Aquaculture and Foreshore Management Division) has responsibility for the licensing of seaweed cultivation which at present operates on a very small scale.

The Department with responsibility for permitting the harvesting of 'wild' seaweed is the Department of Housing, Local Government and Heritage, (except where the harvested seaweed is used for aquaculture or fisheries purposes in which case this Department has responsibility). The licensing of the harvesting of wild seaweed from the foreshore integrates with the overall portfolio of foreshore licensing activities which come within the remit of the Department of Housing, Local Government and Heritage as it involves the extraction of material from the foreshore and in that respect is similar to that Departments' licensing functions on sand and gravel or other dredging or licensed activities on the foreshore.

The farmed sector is primarily concerned at present with those species of seaweed which are used for human consumption, either on their own or as part of seafood dishes such as sushi. Ireland has established a position of technological leadership in seaweed cultivation. BIM has been central in supporting this developmental work with industry partners and there are now intensive efforts to include other high value forms of seaweed, such as the red seaweed which is used for the production of seafood products for human consumption.

### ***Marine Planning and Development Management Bill***

The Department of Housing, Local Government and Heritage have been preparing this Bill, which aims to modernise and align the foreshore consenting regime with terrestrial planning more generally and define in law an Irish Maritime Area, encompassing the Foreshore, Exclusive Economic Zone (EEZ) and Continental Shelf.

In line with the Government decision of March 2019 and pending the introduction of the National Marine Planning Framework, development and activities, for which the Minister for Agriculture, Food and the Marine is the appropriate Minister, will continue to be regulated under the Foreshore Act and are excluded from the Bill and the new regime. This position has been maintained by this Department from the outset of the process. Notwithstanding the fact that the provisions of the proposed Marine Planning and Development Management Bill will not directly affect Fisheries and Aquaculture the Department would have an ongoing concern that consents under the Marine Planning and Development Management Bill in the wider maritime area should take account of the requirements of the Common Fisheries Policy and other Third Country agreements that are binding on the State.

## MARINE PROGRAMMES DIVISION

Head of Division: Paschal Hayes, Principal Officer

*Development of the seafood sector & sustainable management of inshore fisheries.* The Division is also responsible for overseeing the Department's remediation project for Haulbowline Island, Cork Harbour.

**Inshore Fisheries Policy Unit:** Responsible for developing policy for the inshore fleet. Also deals with interactions between sea-fisheries & marine environment; seafood safety policy; seafood market access and trade; seafood sector climate change policy; co-ordination of fisheries & aquaculture issues for Marine Spatial Planning. Oversight of the Haulbowline Island Remediation Project.

**Seafood Development Unit:** Seafood Development Policy; Managing Authority for the European Maritime and Fisheries Fund (EMFF) Operational Programme 2014-20 and forthcoming 2021-27 period; State Aid issues for the seafood sector; matters concerning the National Strategic Plan for Sustainable Aquaculture Development; matters concerning recognition of Producer Organisations in the seafood sector and other matters concerning the EU Regulation on Common Market Organisation of the seafood sector.

**Fisheries IT Re-development Project:** IT project to underpin administrative service delivery for fisheries and aquaculture in DAFM and control and enforcement functions in SFPA. A budget of €14m (of which €13 million under the EMFF) has been allocated up to 2020.

**Key interactions:** Bord Iascaigh Mhara (BIM), Marine Institute (MI), Sea Fisheries Protection Authority (SFPA), Bord Bia, Department of Foreign Affairs & Trade, Department of Defence, Cork County Council.

## INSHORE FISHERIES POLICY PRIORITIES

### Key Challenges for the Inshore Sector

- Core Challenge: Developing sustainable fisheries and fishing-related livelihoods while protecting marine environments.
- Natura 2000: Fisheries interactions with protected marine habitats and species must be managed in a way that limits the impact of fishing on those environments. There is potential tension between the goals of environmental protection and economic exploitation of marine resources. CJEU judgment applies.
- Data: Historically, poor records and a lack of comprehensive information on landings and fishing effort have hampered the development of fishery management plans.
- Sustainability: Dramatic escalation in the fishing of some stocks (e.g. razor clams) in recent years, while others under long-term pressure. Aim is sustainable practices, economically and environmentally. Other concerns include food safety and traceability as well as potential safety/conflict issues arising from uncontrolled access.
- SSCF (Small scale coastal fisheries) Action Plan: Mandatory requirement of the EMFF Operational Programme. Inshore Fisheries Scheme €6m made available to 2020.
- Key stocks: Lobster, crab, bivalve shellfish, crawfish. Also some access to quota species for inshore sector.

### Inshore Fisheries Forums

- The National (NIFF) and 6 Regional (RIFFs) Inshore Fisheries Forums are multi-stakeholder consultative bodies to foster industry-led development of proposals for the management of non-quota stocks within six nautical miles. The Irish inshore fisheries fleet is defined, for the purposes of the Forums, as fishing boats of less than 12m overall length (about 1,700 fishing boats, potentially 2,500-3,000 jobs).
- The National Inshore Fisheries Forum typically meets with the Minister 3-4 times per year.

- Industry involvement in developing proposals from the outset is preferable, both for their expertise and for participative decision-making. Any management proposals developed are subsequently published for public consultation.
- NIFF-led proposal for tightening of existing rules to deter landing of crab claws & associated discarding of crab bodies at sea currently on hand.
- In February 2019, the first industry led '*Strategy for the Irish Inshore Fisheries Sector 2019-2023*' was launched. The Strategy will frame the work of Inshore Fisheries Forums over the next number of years. BIM is leading implementation of the Strategy which will seek to target funding support available under EMFF to where it can be most effectively used. A Strategy implementation group including the Department, BIM, SFPA, the Marine Institute and industry representatives is monitoring and driving implementation progress.

### Fishing in Natura 2000 areas

- Natura 2000 is an EU network of core breeding and resting sites for rare and threatened species, and some rare natural habitat types which are protected in their own right. The majority of the marine Natura 2000 sites (SAC and SPAs) are inshore, within six nautical miles.
- A key policy priority for inshore fisheries is to bring management of inshore fisheries into full compliance with the Habitats and Birds Directive and with the judgment of the European Court of Justice in case C418/04.
- The Marine Institute (the state agency responsible for marine research, technology development and innovation in Ireland) prepared a risk assessment of sea-fisheries interactions with Natura 2000 protected species and habitats along the South and West coasts of Ireland. A similar risk assessment for protected bird species along the South and West coasts was prepared by the Marine Institute in Feb. 2020, and the recommendations made by the Institute are being reviewed.

- Mitigation measures have been introduced for many dredge fisheries (e.g. mussel seed, scallop, clams) to manage the risks posed to sites. From time to time these need to be extended, updated or revised.
- An ENGO, Coastwatch, made an application to have a decision to allow razor clam fishing to take place in Waterford Estuary judicially reviewed. These proceedings have been brought to a satisfactory conclusion. The State has agreed to undertake appropriate assessment screening and, if necessary, appropriate assessment in advance of areas being classified as production areas for the fishing of razor clams in or near a Natura 2000 site. DAFM is working with the Inshore Management Group (SFPA, BIM, MI) to update the existing protocol for bivalve mollusc fisheries to reflect the new steps. The State has also agreed to undertake a review of the regulations in this area, the European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013, as part of the settlement of the case. The review must be concluded by the end of November 2020, so DAFM will commence this process soon and consultation with a number of parties will be required. Any regulatory changes which may be required will be the subject of a submission to the Minister.

### Mussel Seed Fishery

- This fishery is an important source of raw material for sea-bed mussel aquaculture farms. Mussel seed spat falls occur in the wild and the location of spat falls can be unpredictable. Despite this, some significant regular fisheries occur, particularly in the Irish Sea. Mussel farmers fish for wild mussel seed that is then transplanted onto their licensed aquaculture sites for on-growing and later harvesting. The sector is litigious, a number of proceedings have been taken against the State for alleged losses due to management of the fishery. Seed stock levels have been an issue in recent years.
- The mussel seed fishery has been managed on all-island basis, in conjunction with the Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA NI) and the cross-border Loughs Agency. The recommendations of a 2008 expert group

report – *The Rising Tide* – on the bottom mussel industry on the island of Ireland form the policy basis for managing the mussel seed fishery and bottom mussel culture.

- A review of the management arrangements for the Irish Sea mussel seed fishery is currently underway. The review was prompted by stock advice provided by the Marine Institute ahead of the 2018 mussel seed fishery which highlighted the issue of the level of allocations to fish compared to biomass estimates in the Irish Sea stock and raised concerns about the harvest strategy given continued low biomass of mussel seed in the Irish Sea.
- A public consultation on the review was held over a six-week period concluding on 31 December 2019, with 79 valid submissions received. The information received from the public consultation has been reviewed and will inform policy decisions on the management arrangements for the fishery. A report summarising the responses received is being published.
- The potential introduction of post-fishery surveys as a means to better understand the impact of the fishery and assess the extent of overwintering of mussel seed has been communicated to industry representatives, with no objections raised. This proposal is undergoing further development by the Marine Institute in conjunction with the Marine Agencies and under guidance from DAFM.

### **Voisinage Arrangements & Sea-Fisheries (Amendment) Act 2019**

- The Sea-Fisheries (Amendment) Act 2019 was commenced by the Minister on 23 April 2019. The Act amends the Sea-Fisheries and Maritime Jurisdiction Act 2006 in order to provide access to fish in Irish waters from the baselines to 6 nautical miles for Northern Ireland owned and operated vessels. Reciprocal access is provided to Irish sea-fishing boats wishing to fish in the Northern Ireland 6-mile zone. These are long standing arrangements known as the Voisinage arrangements.
- The Act was introduced following a Supreme Court judgment in 2016 which stipulated that legislation was necessary for the access to be provided. Prior to the 2016 judgment the access had been provided reciprocally with Northern Ireland without

legislation. During the interval between the judgment and the commencement of the 2019 Act access to the Northern Ireland 6 mile zone continued to be afforded to Irish sea-fishing boats.

- While the Act restores access to Northern Ireland vessels to fish under the terms of the Voisinage arrangements, this access is subject to the same conditions that apply to Irish sea-fishing boats, in line with the general principles agreed as part of the Voisinage arrangements. The Act includes provisions which apply equal treatment for Northern Ireland vessels while fishing in the 0 to 6 nautical mile zone.
- In July 2017 the UK announced its departure from the London Fisheries Convention under which the Voisinage arrangements had been made (and other fisheries access arrangements) as part of its Brexit strategy. In its departure notice to Ireland and in correspondence since, the UK Govt has repeatedly stated that it wishes to keep the Voisinage arrangements.
- Judicial Review proceedings were lodged in July 2019 by an environmental activist against the State in relation to the commencement of the Sea-Fisheries (Amendment) Act 2019 arising from alleged concerns about environmental impact.

### Litigation: Barlow 1 Case

- [REDACTED]
- [REDACTED]
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### Seafood Safety, Market Access & Trade Policy

- The value of Irish seafood exports increased by 6% in 2019 to €605 million compared to €562 million in 2018.
- The Irish seafood export market has steadily increased over the past number of years; there has been a 44% increase in exports since 2011 when the total value of seafood exports was €420 million.
- Market access & trade relationship oversight for seafood; engagement with Bord Bia, BIM, SFPA, DFAT and industry key to identifying future market options.
- Ongoing co-ordination with SFPA, MI and FSAI on emerging issues. Seafood export and market access issues are highlighted in briefs for trade missions.
- Policy co-ordination on Official Control Regulations (including implementing & delegated regs) applying to seafood.

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### Seafood Climate Change Policy:

- As part of the delivery of its Climate Action Plan, the Government launched Ireland's first Sectoral Climate Change Adaptation Plans in October 2019. As part of the Agriculture, Forest and Seafood Sector Adaptation Plan prepared by DAFM a seafood specific plan was drafted with expert input from the Marine Agencies & under guidance from Climate Ireland.
- Updates on the implementation of the seafood-related actions are co-ordinated by the Seafood Climate Action Group, comprising representatives from the Marine Divisions of the Department as well as the Marine Agencies.
- The Action Group is working to quantify baseline climate change impact related expenditure across the marine agencies and to optimise the delivery of policies & schemes to address climate change impacts.

- The work of the Action Group feeds into the high-level structures established to ensure the delivery of the plan: the Climate Action Management Board, & the Climate Action Implementation Committee.
- Climate related EMFF expenditure: €16,043,047 at December 2019.

### Clean Oceans Initiative

- *The* Clean Oceans Initiative was launched by the Minister in January 2019 at Union Hall Pier to address marine plastic pollution being encountered routinely by Irish sea-fishing boats.
- By the end of 2019 168 trawlers and 56 other fishing boats had signed up with 12 ports registered and are actively involved in the initiative. This means that 96% of Irish trawlers were signed up in the first 12 months of the Clean Oceans Initiative.

### Marine Spatial Planning

- DAFM is actively engaged on Marine Spatial Planning for which Department of Housing, Planning and Local Government (DHPLG) is the lead. DAFM has put forward strong policy positions in the draft National Marine Planning Framework (NMPF) in relation to aquaculture and fisheries. DAFM has highlighted the importance of fishing to the sustainability of coastal communities, the need to avoid spatial conflicts through meaningful engagement and the need to manage fisheries in a way that is sustainable both economically and environmentally.
- Funded through Ireland's European Maritime and Fisheries Fund (EMFF) Operational Programme, the Marine Institute (MI) provides technical and scientific support to the Department of Housing, Planning and Local Government (DHPLG) in the implementation of Marine Spatial Planning in Ireland. By the end of 2019 the MI had expended €2.49 million on projects relating to the Blue Growth and Marine Spatial Planning Scheme.

## **HAULBOWLINE ISLAND REMEDIATION PROJECT**

- DAFM took responsibility for the remediation of Haulbowline Island in 2011, and ownership of the island was transferred to the Minister in 2013 to ensure that there were no legal obstacles to undertaking the remediation project.
- Remediation works commenced at the East Tip site in late 2017, with completion confirmed on 11 October 2019. Cork County Council (the Minister's agent for operational matters under MOU with DAFM) wishes to open the transformed site as a recreational amenity and a lease is being drafted to facilitate this.
- Discussions are ongoing to transfer ownership of the island to the Department of Defence, the Government identified ultimate final owner of the island.
- Overall project expenditure at the end of 2019 had reached €25m with 2020 expenditure projected at €725k as residual project costs, site maintenance and post-construction environmental monitoring commitments related to the former East Tip are met.

## **SEAFOOD DEVELOPMENT UNIT**

### **European Maritime and Fisheries Fund Operational Programme EMFF 2014-2020**

- This €240m Programme is the main source of development funding for the seafood sector up to 2020.
- Governed by Regulation 508/2014 on the European Maritime and Fisheries Fund.
- Co-funded by Government (€92m) and the EU (€148m).
- The Marine Programmes Division of the Department is the designated Managing Authority for the EMFF OP and has overall responsibility for management and reporting on the EMFF OP.
- The Programme provides develop supports through 19 Schemes for fisheries, aquaculture, seafood processing, EU Data collection (fisheries science), control and enforcement of sea-fisheries law, Fisheries Local Action Groups (CLLD), and the Integrated Maritime Policy (Marine Spatial Planning, Natura 2000, Marine Strategy Framework Directive).

- The Programme is on course for full utilisation of funds, with 82% of Programme funds committed at end 2019. Year 2020 should see remaining funds committed to grant offers, with drawdown of funds by beneficiaries to be mostly completed in 2021.
- To date, claims totalling almost €70 million have been submitted to the Commission and a total of €56 million has been reimbursed. A further €25 million will be recouped in 2020 arising from the submission of claims amounting to €37.6 million
- The 2020 programme budget is €42 million, which includes €21 million to be dispersed by Bord Iascaigh Mhara to the fisheries, aquaculture and seafood processing sectors, €6m IT investment by DAFM in control and enforcement systems, €4.6 million spend by the Marine Institute on marine biodiversity and marine spatial planning projects, €2 million spend by Bord Bia on seafood promotion and €3 million spend by the Sea Fisheries Protection Authority on control and enforcement projects.

### **Seafood Development Programme 2021-2027**

- The EU co-legislators are presently engaged in trilateral negotiations to agree a new EU Regulation to govern a successor to the EMFF for the next seven year period 2021-27, the so-called European Maritime, Fisheries and Aquaculture Fund.
- The Commission Proposal was published in 2018 and the Council and Parliament agreed their respective positions in 2019.
- The legislative proposals radically overhaul the legal framework of the present EMFF, largely abandoning the menu of eligible measures approach in favour of allowing member States fund investments of their choosing provided they contribute to the 4 stated objectives or priorities of the Regulation and subject to a small number of stated excluded investment types specified in the Regulation.
- The new regulation is unlikely to be enacted before the late Autumn of 2020, and perhaps later, and this means that submission to the Commission of programmes by Member States may be delayed.
- DAFM is working to a timeline that aims to submit our programme for Commission adoption in the first half of 2021.

- DAFM completed an initial consultation process on 21 February 2020, involving public submissions and bilateral meetings with key stakeholders. DAFM is presently carrying out a SWOT and Investment Needs analysis, and this crucial stage will determine the investment priorities for the new Programme.
- The quantum of funds to be available under the new programme is unknown at present. EU negotiations on the Multi-Annual Financial Framework are ongoing and the outcome will determine what overall budget is available to be distributed among Member States. In its original legislative proposal, the Commission proposed to maintain budgetary stability for the new Programme and proposed allocations to Member States in the same proportions as for 2014-20, albeit with a lower overall budget available for the EMFF because of the loss of the UK contribution. Ireland's proposed allocation was €142.4 million compared to €147.6 million for 2014-20. On 2 June 2020, Virginijus Sinkevičius, European Commissioner for Environment, Oceans and Fisheries, announced that, as part of the EU Recovery Plan being proposed by the European Commission, an additional €500 million would be proposed for addition to the EU budget for the European Maritime, Fisheries and Aquaculture Fund (EMFAF) 2021-2027. This is €500 million proposed to be added to the 2021-27 budget proposed by the European Commission. This is a Commission proposal and would fall to be funded as part of the Multi-annual Financial Framework. The proposal is subject to negotiations and approval by the Council and European Parliament.
- Another factor that will influence the overall size of Ireland's fund is the Government of Ireland contribution, i.e. what co-funding rates are used. This will be subject to the sanction of the Minister for Public Expenditure and Reform.

### **National Strategic Plan for Sustainable Aquaculture Development**

- In 2015, a National Strategic Plan for Sustainable Aquaculture Development was published by the Minister for Agriculture, Food and the Marine. The Plan is a requirement of the CFP Regulation, and is intended to inform investment priorities for aquaculture under Member States' operational programmes under the European

Maritime and Fisheries Fund, although the scope of the national plans is broader than investment needs.

- The Plan targets growth of the aquaculture industry by 45,000 tonnes to 81,700 tonnes by 2023. It proposes 24 actions to help address the challenges facing the industry and assist it achieve its growth potential. Almost all actions are underway, and very many are multi-annual and ongoing in nature, while a small few are sequential and follow after completion of others.
- A key action proposed in the Plan was a review of the regulatory framework for aquaculture licensing and associated administrative procedures. This was carried out in 2017 and the Aquaculture and Foreshore Management Division of the Department is tasked with implementing a plan to address the recommendations.
- The European Commission is in the process of updating its Strategic Guidelines for the Sustainable Development of EU Aquaculture. The revision is intended to incorporate the EU's Green Deal, place greater emphasis on climate change and biodiversity and otherwise take into account developments since the original Guidelines were published in 2013.
- DAFM has asked BIM to begin the process of updating Ireland's National Strategic Plan for Sustainable Aquaculture Development, taking into account emerging changes to the EU Guidelines.

### **State Aid for Seafood Sector**

- The Seafood Development Unit advises on and oversees State Aid compliance issues for the seafood sector.
- The seafood sector has its own de minimis and block exemption regulations and its own Commission Guidelines for Examination of State Aid applications.
- The EMFF Regulation exempts most support measures under the EMFF Programme from the requirements of the Treaties to notify State Aid.
- Aid outside of the EMFF OP must either be notified to the Commission or be covered by the Fisheries Block Exemption Regulation (FIBER) or the Fisheries De minimis Regulation.

- The block exemption is due to expire at the end of 2020, as it is linked to and mirrors the EMFF Regulation. Due to the likely late enactment (circa Q3 2020) of the new EU Regulation for the successor to the EMFF post 2020, the Commission is expected to enact a one year extension to the block exemption to the end of 2021.
- The European Commission is presently conducting a review of the block exemption, de minimis and the notification guidelines. The block exemption in particular is expected to be radically redrafted to reflect the significant differences between the present and future EMFF Regulations.
- On 19 March 2020, the European Commission adopted a temporary framework for state aid measures to support the economy of member states in the current Covid-19 outbreak. The new rules include a large increase of the maximum amount of de minimis aid per undertaking, from currently € 30,000 to € 120,000. However, unlike the normal fisheries De minimis, proposals to use this temporary higher aid limit require advance Commission approval.

### **Market Organisation for Seafood Sector**

- The Regulation also provides for recognition and regulation of Producer Organisations in the seafood sector, for preparation by POs of Production and Marketing Plans to guide their activities towards the objectives of the CMO and CFP, establishment of marketing standards for seafood products, consumer Information standards for seafood products, competition Rules for Seafood Products and seafood market Intelligence.
- The Commission is assisted by an Expert Group comprised of member States representatives.
- DAFM is the competent authority for Ireland under the CMO Regulation.
- Ireland presently recognises 5 seafood Producer Organisations, 4 in the fisheries sector and 1 in the aquaculture sector. An application in 2019 for recognition by a group comprised of island fishermen was refused by DAFM as the application did not meet the Minister's recognition criteria.

- On 15 April, the Minister adopted new national recognition criteria for seafood producer organisations, following a public consultation process.
- Since the adoption of the new criteria, there have been two applications for recognition as Producer Organisations, the first from the National Inshore Fishermens Association (NIFA) and the second from the Irish Islands Marine Resource Organisation (IIMRO). These applications are being reviewed and the Department as competent authority has three months before a decision is made.
- The NIFA application process has been interrupted to allow for further information to be provided to the Department to allow for full assessment of the application. The IIMRO application was received on the 26<sup>th</sup> August 2020 and is the early stages of assessment.

### **Seafood IT Re-development Project**

- A requirement to provide modern IT support systems for fisheries and aquaculture was identified and scoped in 2018. The new systems will underpin administrative service delivery for fisheries and aquaculture in DAFM and control and enforcement functions in the Sea Fisheries Protection Authority (SFPA).
- Total budget of €14m (of which €13 million is EMFF) has been allocated up to 2020.
- The phases of the project currently under development include:
  - Quota Balancing system
  - Sea Food Online Services Portal
  - Sea-fishing boat licensing online system
  - Aquaculture Geographical Information System (GIS)

## MARINE ENGINEERING DIVISION (MED)

Head of Division: Noel Clancy, Chief Engineer

The Division which is organised on a regional basis with staff based in offices in Clonakilty, Dublin, Tralee, Galway and Ballyshannon and at each of the Fishery Harbour Centres provides technical, advisory and project and operational management support to the Department.

### Key Functions of Division

MED works closely with Sea Fisheries Administration Division (SFAD), Aquaculture and Foreshore Management Division (AFMD) and Marine Programmes Division (MPD) in the following key areas

1. Aquaculture licence monitoring, surveillance and inspection, evaluation of applications and mapping records.
2. Operational management of the Fishery Harbour Centres.
3. Develop and implementation of the Fishery Harbour, Marine and Coastal Infrastructure Capital Programme.
4. Advise the Minister and other Divisions on engineering and harbour operational issues.
5. Contribute to the overall management of the Marine Portfolio of the Department including legislation, policy and issues such as climate change.

### Aquaculture

The work of the Division in the aquaculture licensing and inspection area largely comprises examining and reviewing applications and EIS documentation, site inspections and provision of engineering reports to AFMD. The division works closely with the other scientific and technical advisors in providing this service to the department.

MED also carries out regular inspections of marine and land based aquaculture installations and provides reports on licence compliance to the Department.

It has been noted, particularly in recent years, that there appears to be a greater level of detailed scrutiny and concern raised by third parties, particularly where aquaculture proposals are moving onto new areas on the foreshore highlighting the need to ensure that MED reports and inspections are maintained to a high standard.

MED introduced a new section in the division focusing on aquaculture and environmental issues to ensure we remain at the cutting edge in relation to our level of service in this key area. The target set in the National Strategic Plan for Sustainable Aquaculture Development is 45,000 tonnes increase in output from all sectors by 2023 taking 2012 as the base year. In 2018 the Department committed to ensuring that the aquaculture backlog would be eliminated in the shortest possible time; and with 300 determinations in 2018 and a similar number in 2019 this was achieved. Accordingly MED successfully prioritised its efforts to ensure the required engineering surveys, inspections and reports were provided to AFMD to assist in meeting the targets set.

MED proposed, and is currently working with Information Management and Technology Division (IMT), AFMD and the Marine Institute to develop a digital on-line system for managing aquaculture licensing. This (AQUAMIS) project will address key recommendations of the Independent Aquaculture Licensing Review and allow for online submission and electronic processing of aquaculture licence applications, significantly improving efficiencies and providing greater public transparency through an on-line aquaculture licence and mapping viewer.

MED is currently developing a Shellfish Monitoring Programme at the request of AFMD to inspect shellfish sites around the country and report on compliance with licensing and environmental conditions.

### **Foreshore and Environment**

MED is involved in assessing, reviewing and providing technical advice on Foreshore licence and lease applications in respect of fisheries, aquaculture and fishery harbour related activities which are processed directly by DAFM.

MED also provides advice and assistance on certain aspects of DHPLG foreshore related matters referred to DAFM as part of the foreshore consultation process in line with the divisions of function between the relevant Ministers, provided for in the Foreshore and Dumping at Sea (Amendment) Act 2009.

MED is a key contributor to issues such as the legislative change currently being undertaken as part of the Marine Spatial Planning and Marine Planning and Development Management legislation.

MED is involved in assessing, reviewing and providing technical advice to DAFM on environmental related matters including Climate Change, Environmental Impact Assessment, Appropriate Assessment, Strategic Environmental Assessment, Water Framework Directive, Marine Strategy Framework Directive, Marine Litter, Single Use Plastics, Sustainable Energy in so far as they relate to the remit of the Department.

### **Fishery Harbour and Coastal Infrastructure Work**

MED is involved in planning and implementing maintenance and development works at the six Fishery Harbour Centres (FHCs) of Howth, Dunmore East, Castletownbere, An Daingean, Rossaveel and Killybegs; which are the backbone of the Irish fishing industry and also provide facilities to cater for foreign fishing vessels, cruise liners, marine leisure and occasional cargo vessels.

In addition to the FHCs, MED also carries out maintenance and development works at a number of piers, lights and beacons around the coast, the largest of which is North Harbour Cape Clear, Co. Cork.

MED inspects and reports on Local Authority harbour work co-funded by the Department. This comprises pre-inspections before works commence and post-inspections to confirm works have been completed.

MED is continuing to implement a reform agenda introduced at the FHCs in 2014, where responsibility for certain functions at the FHCs including Operational, H&S, and HR now come under the remit of MED. Particular attention is being given to Work Force Planning (WFP) at the FHCs to guarantee the ports have a sufficient core staff complement, bearing in mind the extensive level of service that is required to service the fishing industry at these busy ports. In this regard significant effort in conjunction with HR Division has focused on ensuring that the resources of Harbour Master, Industrial and Clerical staff grades at the FHCs are being maintained at adequate staffing levels to meet the demands of these major facilities.

Significant investment has been provided in annual Coastal Infrastructure Development Programmes amounting to €34.3 Million in 2020, including €3.1 Million for upgrading of Local Authority Piers and Harbours. After a number of years of intense effort by MED and SFAD some key projects have been steered through consultation, design, planning, waste consenting and tendering stages. A major contract is currently underway since July 2018 for the new development at Dinish Island, Castletownbere FHC comprising of capital dredging and construction of a 210 metre wharf including breakwater protection. This is being project managed by MED on behalf of the Department at a cost of €23.4 million, exclusive of VAT. Works recommenced on site on 31 August 2020 following a cessation of works by the contractor in July 2020. Other major projects at the FHCs are being progressed, which include a €12.9m contract awarded in August 2019 for 120 metre quay extension works and dredging at Smooth Point, Killybegs; a €5.5m contract awarded on 31 July 2020 for works at Howth FHC

comprising significant upgrade works at the middle pier and progress planning stage for a major capital dredging project of the harbour; major wharf repairs and a new pontoon berth at Dunmore East FHC; and preparation of plans for a major deep water quay development at Rossaveel FHC.

### **MED Key Immediate Issues for 2020**

Some of MED's priorities for 2020 include:

- Project management of the Fishery Harbour and Coastal Infrastructure Capital Programme (FHCICP), for an agreed range of projects at the six FHCs, Cape Clear and a small number of piers, lights and beacons for which this Department has responsibility. In particular, while MED is currently working within the constraints imposed by the COVID-19 Pandemic, with some inevitable delays and cost implications for projects currently in progress, MED will concentrate on ensuring that the projects identified for funding, which includes safety and maintenance work and new development works, are delivered on time and within budget while complying with all procurement legislation.
- MED will continue to work closely with SFAD in drafting the annual capital programme to ensure that the necessary key infrastructure upgrades and developments are provided to facilitate the fishing industry.
- MED will assist with provision of maps and technical input as necessary to facilitate leasing, licensing and other consenting issues in relation to the property portfolio at the FHCs as the need arises. This includes provision for leisure and other activities, including provision of small craft harbour facilities to meet the needs of the smaller boats in the ports.
- MED will continue to be responsible for the overall operational management of the six Fishery Harbour Centres. Approximately 212,000 tonnes of fish were landed into the six Fishery Harbour Centres in 2019, representing 81% of the total landings into Ireland (BIM – The Business of Seafood 2019).

- MED also work closely with AFMD to ensure engineering technical inspections, surveys and reports are provided in a timely manner, and in particular to deliver on prioritised bays and to ensure the Division's input is delivered within agreed timeframes.
- MED will carry out the annual inspections of all operating marine and land-based finfish facilities and develop a similar shellfish monitoring programme.
- MED will continue to be key drivers of the AQUAMIS project working closely with IMT and AFMD. This project will allow for online applications and public viewing as well as electronic processing and management of licences.
- MED will continue to contribute to the Climate Change agenda as it relates to the Seafood Sector in conjunction with MPD. For example, for the proposed Howth Capital Dredging Project an environmental sustainability rating scheme will be introduced in line with best practice.
- MED will continue to work with DAFM colleagues from a number of Divisions in the update of the IFIS system, essentially introducing an up to date IT system to manage all Fishery related matters.
- While MED has effectively secured sufficient resource to meet the increasing demands placed by SFAD, MPD and AFMD in the project management, inspectorial and reporting areas of its service delivery role, there is an urgent need to fill existing critical vacancies and plan for a number of upcoming staff retirements at key management levels.

## SEA-FISHERIES ADMINISTRATION DIVISION

Head of Division: Kevin Moriarty, Principal Officer

Sea Fisheries Administration Division manages and develops the six Fishery Harbour Centres so as to ensure they provide optimum support to the achievement of Government and Department policies and strategies, such as the Common Fisheries Policy, the National Seafood Development Programme and Foodwise 2025, in addition to other Government and Department strategies for the wider development of the Fishing Sector and Seafood industry. The division also provides a transparent, equitable and user-friendly, licensing and registration system for sea-fishing boats to ensure compliance with EU-determined fishing fleet capacity limits and reporting requirements. In addition the Division acts as the Central Depository for contract and employment documentation as part of the Immigration Service Delivery, Department of Justice & Equality Scheme for the employment of non-fishers in parts of the Irish commercial sea-fishing fleet.

### Role of Division

- To administer the Fishery Harbour and Coastal Infrastructure Development Programme.
- Development of appropriate policies and strategies, in partnership with the Department's Marine Engineering Division, for the efficient operation and management of the six Fishery Harbour Centres (FHCs) at Castletownbere, Dunmore East, Howth, Killybegs, Rossaveel and Dingle.
- The operation and management of the six FHCs as provided for by way of Fishery Harbour Centres Acts 1968(as amended).

- All income received by way of harbour dues, rents, etc. are paid into a Fishery Harbour Centres Fund, by way of the Fishery Harbour Centres Fund (which is provided for in Section 9 of the 1968 Act), and outlay in respect of the management of the harbours is paid from the Fund.
- To collect revenue and reduce the monies owed to the Fishery Harbours Centres Fund.
- Management and development of the property portfolio at the six FHCs in accordance with the Fishery Harbour Centres Act 1968 as amended (the property portfolio consists of some 249 properties).
- To provide administrative support for the Licensing Authority for Sea Fishing Boats (processing of licence, registration and de-registration applications in accordance with Ministerial Policy Directives, EU and customer service requirements).
- To manage the Irish Fishing Fleet Register in accordance with national and EU policy requirements.
- In cooperation with the Immigration Service Delivery, Department of Justice & Equality, to act as a central depository for contract and employment documentation of non-EEA workers in the Irish Commercial Sea-Fishing Fleet.

### **Fishery Harbour & Coastal Infrastructure Development Programme**

The Fishery Harbour and Coastal Infrastructure Development Programme is a capital expenditure programme funded, in the main, from the Department of Agriculture, Food and the Marine vote. The programme is administered on an annual basis and any money not spent within the calendar year reverts to the exchequer. Works funded under the programme include development, construction and maintenance of coastal infrastructure for fish and aquaculture landing sites.

The strategic objective of this programme is to ensure the future viability of the fishing industry, to bring the FHCs up to best international standards, to reduce congestion at the

harbours and to improve safety for the fisheries sector. Since 2010, a total of €125 million has been invested in this programme.

The Department also has responsibility for North Harbour at Cape Clear Island, as well as the maintenance of a small number of specific piers, lights and beacons throughout Ireland, in accordance with the Marine Works (Ireland) Act 1902, and piers, lights and beacons constructed under the auspices of the Congested Districts Board.

In addition, the programme provides funding for small scale development and repair of Local Authority owned harbours, piers and slipways subject to available exchequer funding. Since 2010, €29 million has been spent on the Local Authority sub programme.

### **Management of Fishery Harbour Centres**

The Department owns and directly manages six FHCs. The employees at the FHCs are Department employees. The FHCs are managed and operated in accordance with the provisions of the Fishery Harbour Centres Acts 1968. Section 4(1) of the 1968 Act requires the Minister to manage, control, operate and develop each of the Harbours. Section 6 places specific responsibility on the Minister in relation to maintenance, repair, improvement, extension and modification of the harbours including buildings and road access.

The operation and management of the harbours is administered by way of the Fishery Harbour Centres Fund, which is provided for in Section 9 of the 1968 Act (as amended). All income received by way of harbour dues, rents, etc. are paid into the Fund and outlay in respect of the management of the harbours is paid from the Fund. The State's Valuation Office valued the six FHCs at €647m as of 31<sup>st</sup> of December 2014. A new valuation process is underway and due to be completed by the end of 2020.

## **Property Unit**

Section 5 of the Fishery Harbour Centres Act 1968 as amended by Section 6 of the Fisheries and Foreshore (Amendment) Act, 1998 sets out the Minister's powers with regard to the property vested in him under the Act. It sets out that the Minister can use such property for:

- any purpose connected with the improvement and development of the fishing industry, or
- the provision, improvement and development of services and facilities ancillary to or connected with the fishing industry and
- any other purpose, including the provision, improvement and development of leisure or amenity facilities, promoting the social or economic development of the area in which the fishery harbour centre is located and
- to sell, lease, let, exchange, grant easements over, profits à prendre in respect of or permit the use for any of those purposes which the Minister considers appropriate.

A Property Unit operates within Sea Fisheries Administration Division to manage and develop the property portfolio. The most significant harbours from a property perspective are Howth and Castletownbere. There are a total of 249 properties within the six FHCs.

## **Debt Recovery Unit**

A Debt Recovery Unit is in place to collect monies owing to the Fishery Harbour Centre Fund. As at 31<sup>st</sup> December 2019, €1,585,348 was owed to the Fund by 266 debtors.

The Department has a number of cross compliance measures in place to ensure collection of monies owing and these include:

- Application to deregister a vessel (Licensing Authority for Sea Fishing Boats) is held until arrears are discharged.

- BIM grant payments are withheld pending confirmation of compliance with the Fishery Harbour Centres.
- Withdrawal of access to syncrolift facilities (used for the lifting of vessels/boats for repair or inspection) where customers are not in good standing with the Department.

### **Licensing Authority for Sea Fishing Boats**

The Fisheries (Amendment) Act 2003 introduced a new fleet licensing policy to ensure equity, transparency and an independent appeals process for persons aggrieved by a decision of the Licensing Authority. The Act transferred the function of sea-fishing boat licensing from the Minister for Communications, Marine and Natural Resources to the Licensing Authority for Sea-Fishing Boats.

The Licensing Authority operates on an independent basis subject to criteria set out in section 3 of the Act. All applications for commercial sea-fishing boat licences are processed by the Licensing Authority for Sea-Fishing Boats. As specified in the Act, the Licensing Authority is the Registrar General of Fishing Boats, a senior official of the Department of Agriculture, Food and the Marine or, under the superintendence of the Registrar General, the Deputy Registrar General of Fishing Boats.

### **Atypical Workers Permission Scheme/The Central Depository**

- The Scheme for the employment of non-EEA fishers in parts of the Irish commercial sea-fishing fleet was launched on 15<sup>th</sup> February 2016. The relevant Government Departments involved in the Scheme are the Department of Justice and Equality; Department of Transport, Tourism and Sport; Department of Business, Enterprise and Innovation; the Department of Employment Affairs and Social Protection and the Department of Agriculture, Food and the Marine.
- The Scheme is an extension of the Atypical Working Scheme, administered by the Department of Justice & Equality (Immigration Service Delivery), and was introduced

based on a series of recommendations made by the Government Task Force on Non-EEA workers in the Irish Fishing Fleet in December 2015. This Task Force was established following reports of alleged abuses of migrant workers on board Irish fishing vessels.

- The granting of permissions to work in the State, under this Scheme, is a matter for decision by Immigration Service Delivery. This Department's role in the Scheme is limited to hosting the Central Depository, which facilitates applications for Pre-Approvals to the Scheme, and chairing the Oversight Committee established to monitor the Scheme and ensure that it is operating as intended.
- The Scheme provided for the first time a structured and transparent framework for the employment of non-EEA workers within defined segments of the Irish fishing fleet. The Scheme sets down minimum terms and conditions of employment applicable to non-EEA fishers which are in line with the general statutory terms and conditions applicable to workers more generally in the State. The Scheme was welcomed as a solution to the risk of exploitation and to guarantee employment rights and protections to non-EEA fishers availing of the Scheme.

The Department of Agriculture, Food and the Marine fulfils its Central Depository role by providing:

- an internet-based system that facilitates the processing of Pre-Approval applications from applicants seeking to apply to the Immigration Service Delivery, Department of Justice & Equality (DJE) for an Atypical Working Scheme (Crew Member) Permit (*an extension of the Atypical Working Scheme*)
- Issuing a unique identifying number for each eligible contract received
- Communicating the unique identifying number detail to DJE.
- Maintaining a Central Depository of eligible contracts of employment received
- Monitoring the ceiling of 500 Pre-Approvals in any twelve-month period and advising Immigration Service Delivery of same.

## SEA-FISHERIES POLICY AND DEVELOPMENT DIVISION

Head of Division: Josephine Kelly, Principal Officer

To implement national policies and negotiate policies at EU and International level, that support long term sustainability for the sea-fisheries industry in Ireland, and to maximise the long term contribution of the sea-fisheries industry to the economies of coastal regions and Ireland's blue growth policy objectives.

### Main responsibilities and issues arising

#### *EU/UK Fisheries Agreement*

#### *What is Ireland's position?*

For Ireland and the EU27 the position on fisheries is agreed and set down in the EU negotiating mandate, which states at Article 89 that:

- 'the provisions on fisheries should uphold existing reciprocal access conditions, quota shares and the traditional activity of the Union fleet, and therefore:
  - uphold continued reciprocal access, for all relevant species, by Union and United Kingdom vessels to the waters of the Union and the United Kingdom;
  - uphold stable quota shares, which can only be adjusted with the consent of both Parties'

The EU negotiating mandate commits that any fisheries agreement can only be agreed in the overall context of the future relationship at:

- Art. 17: 'The envisaged partnership should include an ambitious, wide-ranging and balanced economic partnership, insofar as there are sufficient guarantees for a level playing field.... It should include provisions on fisheries'
- Art. 86: '[t]he envisaged partnership should include, in its economic part, provisions on fisheries...'; and
- Art. 90: 'The terms on access to waters and quota shares shall guide the conditions set out in regard of other aspects of the economic part of the envisaged partnership, in particular of access conditions under the free trade area.'

This position is also stated in Art. 73 of the Political Declaration '[w]ithin the context of the overall economic partnership the Parties should establish a new fisheries agreement...'

Any move away from the position on fisheries set down in the negotiation mandate will have a significant economic and social impact for the fishing sectors of the Group of 8 Member States, which includes Ireland.

### **Overview**

Fisheries is one of the areas which will be most impacted by Brexit. On average, over a third of Irish landings come from the UK EEZ. Any reduction in access to this fishing opportunity, whether by a reduction in quotas or the withholding of access to historically shared fishing grounds, will be severely damaging for our fishing industry. Preliminary data for 2018 indicates that 32% of Irish landings were caught in the UK EEZ. For some of our most important stocks, such as Prawns and Mackerel, the figures are even higher. Mackerel is more valuable for Irish fishers when fished off the coast of Scotland as its fat content is high. When mackerel start to migrate into the Irish EEZ they lose fat content and are less valuable. Our high value prawn fisheries and a number of whitefish fisheries are dependent on access to fishing grounds in the Irish Sea, Celtic Sea and West of Scotland, which are wholly or partly within the UK EEZ.

***The following table is representative of the current level of access of Irish fishers to UK waters and the proportion of landings from the UK EEZ by Irish fishers in 2017 in respect of the Total Irish catch and Ireland's Top 3 species.***

<b>Species</b>	<b>Proportion of landings from the UK EEZ (2017)</b>
<b>Mackerel</b>	<b>90%</b>
<b>Nephrops/prawns</b>	<b>39%</b>
<b>Horse Mackerel</b>	<b>29%</b>

<b>Total</b>	<b>41%</b>
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### *The Displacement of EU/Irish vessels from the UK EEZ*

The UK has indicated that where no agreement on fisheries can be reached it will exclude all EU vessels from the UK EEZ from 1st January 2021. Where access to UK waters is restricted, there will be a large influx of EU27 vessels into the Irish EEZ. For example, France, the Netherlands and Germany all have considerable landings of pelagic species from the west of Scotland and it is likely that much of this will be displaced to Irish waters. France, Belgium and Spain are likely to shift fishing for whitefish to the Irish zone of the Celtic Sea. Six fisheries (including the high value prawn and mackerel fisheries) involving 173 of our largest fishing trawlers with total landings of €270 million would be most impacted through loss of access and displacement of EU27 vessels into the Irish EEZ, resulting in increases in fishing pressure. This displacement is likely to:

- o lead to serious over-exploitation of stocks in our own EEZ;
- o deliver substantial cuts to many of our quotas;
- o cause an impossible control challenge for the Irish navy, and potentially conflict at sea.

More than 70% of the total Irish fleet of more than 12 metres in length, operating in both whitefish and pelagic fisheries, would be impacted by loss of access to UK waters.

### *What would happen to Irish/EU quota share if UK achieves its quota share ambition?*

#### **Celtic Sea stocks –**

<b>Stock</b>	<b>Total Take from UK Zone</b>	<b>Current UK Share</b>	<b>Potential Reduction in Irish/EU Quota Share</b>
<b>Cod</b>	<b>52%</b>	<b>8%</b>	<b>-48%</b>
<b>Haddock</b>	<b>53%</b>	<b>10%</b>	<b>-48%</b>
<b>Whiting</b>	<b>47%</b>	<b>11%</b>	<b>-40%</b>

### Pelagic Stocks –

Stock	Total Take from UK Zone	Current UK Share	Potential Reduction in Irish/EU Quota Share
Horse Mackerel	27%	9%	-20%
Celtic Sea Herring	41%	0%	-41%

### West of Scotland Stocks –

Stock	Total Take from UK Zone	Current UK Share	Potential Reduction in Irish/EU Quota Share
Haddock	86%	78%	-36%
Megrim	77%	31%	-67%
Monk	75%	31%	-64%

### *The Group of 8*

The common position of the 'Group of 8' Member States (Ireland, Germany, Belgium, Spain, Sweden, Denmark, France and the Netherlands), whose fisheries would be potentially most impacted by Brexit was made evident in the EU's negotiating mandate. The average value of landings by the Group of 8 from the UK zone is €590m per annum. The equivalent figure for the UK in the EU zone is €127m per annum. The EU Member States most dependent upon landings from the UK zone are Belgium (50%), Ireland (34%), Denmark (30%), Netherlands (28%), France (19%) and Germany (18%). In absolute financial terms, France would be the biggest loser (€170m).

There have been multiple meetings between DG MARE (Directorate-General for Maritime Affairs and Fisheries) and the Group of 8. The most recent meeting of the Group of 8 was held on 26 May with the Chief Negotiator Mr Michael Barnier and Fisheries Commissioner Virginijus Sinkevicius. All Ministers expressed full confidence in Michel Barnier and his team to defend the essential objectives and principles set down in the mandate. Ministers also welcomed Mr Barnier's strong commitment to the linkage between all the parts of the negotiations and specifically the link between the overall economic partnership and the conclusion of a fishing agreement.

### *Preparedness Issues*

- After the transition period ends, all imports/exports of wild caught fin-fish products to and from the UK will require Illegal, Unreported, Unregulated fishing (IUU) checks and SPS (Health) checks. These checks will be carried out by the Sea Fisheries Protection Authority (SFPA), other than for landings into a Border Inspection Post where health checks will be carried out by DAFM. Direct landings of fresh fish by UK vessels into the EU will be limited to designated Third Country ports (Castletownbere and Killybegs)
- The practical application of the withdrawal arrangements under the Northern Ireland protocol in respect of fisheries is under consideration. The Voisinage arrangement which gives access to fish in Irish waters, from the baselines to six nautical miles, for Northern Ireland owned and operated vessels and gives Irish fishing vessels access to the 0-6nm Ni waters may also need to be provided for in a new Fisheries agreement.

### *Fisheries under the Common Fisheries Policy (CFP)*

The Common Fisheries Policy (CFP) is a set of rules for managing European fishing fleets and for conserving fish stocks. Designed to manage a common resource, it gives all European fishing fleets equal access to EU waters and fishing grounds and allows fishermen to compete fairly.

The current CFP came into force on 1 January 2014 following an extensive reform process. The main features of the reformed CFP involve a landing obligation (discards ban); setting Total

Allowable Catches (TACs) and quotas to deliver maximum sustainable yield by 2020; and the establishment of regional decision-making arrangements.

The current CFP will be reviewed by the end of 2022. The review of the CFP is a detailed process involving extensive consultation with stakeholders across the EU. The European Commission will commence the review process when there is clarity on the future relationship of the EU and the UK.

Negotiations at EU level of Commission proposals under the Common Fisheries Policy include setting Total Allowable Catch (TAC) and quotas for fish stocks each year at the December Fisheries Council; framework conservation measures; control measures; and fishery management measures.

There are two proposals of importance to Ireland currently under discussion at Fisheries Council Working Group, the new European Maritime and Fisheries Fund (EMFF) for 2021 to 2027 and amendments to the Control Regulation. Negotiations involve maintaining close contacts with the EU Commission, other Member States and the European Parliament, as well as stakeholders.

### ***Landing Obligation***

The landing obligation (also referred to as the 'discards ban') was introduced as part of the reformed Common Fisheries Policy 2013 (CFP). Its objective is to eliminate the wasteful and unsustainable practice of discarding. It applies to all stocks subject to the TACs and Quotas in place.

The practical application of the Landing Obligation has created difficulties for operators requiring changes in fishing practices and behaviour. The Landing Obligation continues to present significant challenges as operators adapt.

## *EU Agenda*

### *European Maritime, Fisheries and Aquaculture Fund (EMFAF)*

The European Maritime and Fisheries Fund (EMFF) is the fund for the EU's maritime and fisheries policies for the period 2014 - 2020. It is one of the five European Structural and Investment (ESI) Funds and it seeks to promote 'a growth and job based recovery in Europe' with the ultimate aim of improving the quality of life for people living in Europe's coastal communities. To date, the EMFF has supported the diversification of coastal economies by supporting job creation in the fisheries/aquaculture sector; providing support to fishermen in the transition to sustainable fishing; and it has also encouraged the development of sustainable aquaculture activities.

In 2018 a new regulation on the European Maritime and Fisheries Fund was proposed by the Commission for the 2021-2027 period. The new European Maritime, Fisheries and Aquaculture Fund (EMFAF) seeks to encourage a dynamic fishing sector, support generational renewal, and ensure a fair standard of living for coastal communities.

The scope of the fund is under discussion and encompasses the acquisition of fishing vessels, in certain circumstances, as well as the replacement or modernisation of engines for vessels up to 24 metres. These measures will be subject to very restrictive conditions to ensure compliance with the objectives of the CFP.

The proposal is currently being discussed in Trilogues between the Council (represented by the Croatian Presidency), the European Parliament and the Commission.

### *Coronavirus Response Investment Initiative*

As part of the Coronavirus Response Investment Initiative, the European Union has amended the provisions of the European Maritime and Fisheries Fund (508/2014) to enable Member States to use their EMFF Operational Programmes to address the impacts of the COVID-19 Pandemic on their seafood sectors. The amendment provides for:

- increased flexibility for Member States to move Programme funds between Priorities
- allows for aid to fishermen for temporary tie-up of fishing vessels due to COVID-19
- restores the Storage Aid market support measure (which allows aid to Producer Organisations for the costs of freezing and temporary cold storage of fishery and aquaculture products where market prices fall below a certain threshold); and
- allows for aid to aquaculture and seafood processing enterprises for the impacts of the Pandemic

The State aid *de minimis* limit for fisheries has also been increased to €120,000. No additional EU funds have been made available.

### ***Control Regulation Amendment***

Control of the vessels within Ireland's Exclusive Fisheries Zone is a matter for the Irish control authorities who monitor fishing activity of all vessels operating in the area. The Control authorities have on-going information in relation to the vessels operating in the Irish Exclusive Fisheries zone including their activities and characteristics. Under the Sea Fisheries and Maritime Jurisdiction Act, 2006, all operational issues of this nature concerning sea fisheries control are, as a matter of law, exclusively for the Sea Fisheries Protection Authority (SFPA) and the Naval Service. The Minister is precluded from getting involved in operational matters including in relation to law enforcement.

A Commission proposal to revise the current fisheries control system was adopted in May of 2018. The proposal seeks to make amendments to the previous 2009 regulation. The main provisions of the proposal cover enforcement, sanctions, Remote Electronic Monitoring (such as CCTV cameras on board vessels), data management (vessel tracking and reporting, weighing and transport of catches), control of recreational fisheries, control of the landing obligation, monitoring of engine power, alignment with existing policies and illegal, unreported and unregulated fisheries. Discussion at working party level is ongoing.

The Croatian Presidency has indicated its intention to agree on a Council Partial General Approach by the end of June 2020 with the remaining articles to be developed and concluded by the German Presidency. The issues of importance to Ireland which will be covered under the proposed Partial General Approach include Remote Electronic Monitoring, weighing and transport of catches, vessel tracking, control of recreational fisheries and control of the landing obligation.

### ***North Western Waters Regional Group***

One of the key features established by the revised CFP is the provision for a regionalised approach to decision-making with regard to fisheries. Regionalisation brings the decision making process closer to the fishing grounds, in particular to national administrations, fishermen and other interest groups, on issues such as implementation of the landing obligation and technical and conservation measures to protect juvenile fish and vulnerable fish species.

Stakeholders through Advisory Councils, including the fishing industry, are fully consulted on all options and input into the regular meetings of the North West Waters Group. The EU Commission implements such agreed policies at EU level applicable to the region.

Ireland is part of the North Western Waters (NWW) Regional Group of Member States along with France, Spain, Belgium and the Netherlands. The UK was also a member of the NWW group before its withdrawal from the EU.

Spain chaired the NWW group for the first half of 2020 and Ireland has taken over the chair for the second half of the year. During the first half of 2020, the NWW Group has agreed on a Joint Recommendation on the continued implementation of the landing obligation, providing for a number of high survivability and *de minimis* exemptions supported by ongoing scientific research. The Commission did not accept a number of the exemptions in this Joint Recommendation. Under Ireland's chairmanship, agreement was reached between the NWW Group and the Commission to amend the Joint Recommendation. This will enable the Commission to proceed with the delegated regulation which will allow for the continued implementation of the landing obligation in 2021.

The Group also agreed on a Joint Recommendation on technical conservation measures (i.e. gear types and mesh sizes to improve selectivity and reduce bycatches of juvenile or vulnerable species). Ireland was successful in getting agreement in the Group to build on progress to improve selectivity measures in the Celtic Sea (the waters to the south and west of Ireland) by increasing the minimum mesh size to 100mm. This Joint Recommendation builds on the measures to help juvenile fish and depleted stocks in the Celtic Sea which were agreed at the December 2019 Fisheries Council and provides for medium to long term measures to protect these stocks.

At North West Waters Regional level, there are intensive discussions on new control arrangements to support the implementation of the Landing Obligation. In this forum, Ireland is pushing for increased powers for the Coastal Member State to support controls of all vessels within its waters.

The issues which will be examined during Ireland's period as Chair from July to December 2020 include agreeing a Joint Recommendation on defining directed fisheries (as required by the Technical Measures Regulation), examining measures to reduce the by-catch of cetaceans (whales, dolphins and porpoises) and conservation measures for King Scallop proposed by France.

## *EU Points*

### *Overview*

One of the important new tools introduced by the 2009 EU Control Regulation is a points system for serious infringements of the rules of the CFP committed by the **master (skipper)** of a fishing vessel and also the **licence holder**. The points system is intended to promote compliance with the rules of the CFP, seeking to deliver on the CFP objective of ensuring proportionate, effective and dissuasive penalties for serious infringements, and must contribute to a level-playing field in fisheries control across Member States. The system put in place is applicable to all fishing vessels which fish in the Irish exclusive fisheries zone, whether they are Irish or foreign flagged vessels.

### *Licence Holders*

Ireland has made a number of attempts to implement the points system for licence holders. The European Communities (Common Fisheries Policy) (Point System) Regulations 2014 (Statutory Instrument (SI) No. 3 of 2014) was drafted to give effect to the requirement of Article 92 of Council Regulation 1224/2009 providing for a points system in respect of serious infringements of the rules of the CFP by licence holders. This operated in 2014 and 2015. The Irish fishing industry took two successful High Court Challenges in early 2016 to S.I. No. 3 of 2014. These cases were appealed by the State to the Supreme Court, which delivered its judgments in December 2017. The Supreme Court found that S.I. No. 3 of 2014 fell short of the requirement of constitutional fair procedures as it "...set up in effect a single decision making process with an onus of disproof on the licence holder."

Two Statutory instruments were since drafted to remedy the deficiencies in S.I. No. 3 of 2014. S.I. No. 125 of 2016 (The European Communities (Common Fisheries Policy) (Point System) Regulations 2016) was signed into force in March 2016. This S.I. took on board, to the extent possible, issues of concern in relation to procedures and process which had been highlighted in the High Court cases; however, this Instrument was not operationalised because it was deemed prudent to await the outcome of the Supreme Court judgements.

A revised Statutory Instrument – S.I. No. 89 of 2018 (The European Communities (Common Fisheries Policy) (Point System) Regulations 2018) - which sought to address concerns expressed by the fishing industry around the complete separation of the role of the control authorities in sea fisheries law enforcement from the determination that a serious infringement of the rules of the CFP has been committed - was drafted in early 2018 and was signed into force on in March 2018, revoking S.I. No. 125 of 2016. This 2018 S.I. was annulled in its entirety by Dail Eireann in May 2018.

A new Statutory Instrument – S.I. No. 318 of 2020 (the European Communities (Common Fisheries Policy) (Point System) Regulations 2020) – was signed into law on 26 August 2020.

## *Masters*

The main purpose of the proposed legislative amendments contained in a recently published General Scheme is to provide for a points system for masters of fishing vessels for serious infringements of the rules of the Common Fisheries Policy, as required by Council Regulation 1224/2009. It is intended that this proposed legislation will fully implement the requirements of Article 92(6) of Council regulation (EC) No 1224/2009 and Article 134 of Commission Implementing regulation (EU) No 404/2011. The draft amending legislation would resolve some typographical errors in the Principal Act of 2006 and introduce other miscellaneous and technical amendments.

The advice of the Attorney General's Office is that it is necessary to implement the Masters points system through primary legislation as the EU regulations do not provide sufficient policies and principles to allow the articles to have direct applicability. This means that a national legal framework must be developed for the system which respects both national and EU law. It is vital that the system put in place in respect of Articles 92(6) and 134, and is legally sound and robust. A General Scheme to provide for a points system for masters of fishing vessels received Government approval in December 2019. Once a number of outstanding legal issues have been finalised with the AG's Office and the General Scheme reviewed, a new Government decision will be sought to approve drafting of a Bill.

Ireland received a letter of formal notice under infringement proceedings from the EU Commission in May 2018 in relation to the non-implementation of inter alia the required EU Masters points system. On 2 July 2020, the European Commission issued a reasoned opinion on Ireland's failure to implement the points system and has given Ireland three months to respond.

Under the European Maritime and Fisheries Fund (EMFF) Operational Programme, the European Commission has by Decision formally suspended payment to Ireland of EU co-funding payments thereunder. As of January 2020, approximately €10m in payments due are withheld.

This suspension will continue indefinitely until Ireland puts in place the necessary legislation and administrative systems to comply with the EU points system for infringements of the CFP. EU funds for control and enforcement available to Ireland under the EMFF are €37.2m over the course of the Programme.

### ***DG Mare's Administrative Inquiry***

The EU Commission by way of Decision informed Ireland in July 2019 of its intention to conduct an administrative inquiry under Article 102(2) of the 2009 EU Fisheries Control Regulation. This is further to a 2018 audit carried out by the Commission which identified "*several serious deficiencies in the Irish fisheries control system, which threaten to undermine the objectives of the Common Fisheries Policy (CFP).*" These deficiencies are the lack of effective control of the weighing of catches of small pelagic species, the failure to quantify the extent of historical underreporting of catches of small pelagic species, an inadequate and ineffective sanctioning system & the lack of control/enforcement of the illegal targeting etc of Bluefin tuna by recreational vessels. The issues arising in the administrative inquiry are operational matters for the SFPA and the Minister, under legislation, is precluded from getting involved in these matters. However, the Commission may seek to make deductions from Ireland's future quotas as recompense if it considers that there were undeclared landings in the past.

The SFPA compiled a detailed report for submission directly to the Commission in December 2019. It was not possible for the SFPA to complete the enormous amount of work required by December. An extension till end February 2020 was permitted and the SFPA have now submitted all of the required data. If the Administrative Inquiry does not lead, in the opinion of the Commission, to the removal of the irregularities, the Commission has the power to establish an action plan which the Minister will be required to implement.

## ***National Fleet Policy***

The Fisheries (Amendment) Act 2003 transferred the function of sea-fishing boat licensing to the Licensing Authority for Sea-fishing Boats and provides that the Licensing Authority is independent from the Minister in the exercise of its functions.

The Minister has responsibility for policy in relation to sea-fishing boat licensing and may issue policy directives in this regard. However, under the 2003 Act the Minister is precluded from getting involved in individual cases, or a group of cases, with which the Licensing Authority is or may be concerned. Accordingly, the Minister may not get involved in the application relating to the licensing function of vessels.

The Licensing Authority has submitted a recommendation to remove the “Two Year Rule”, which requires that capacity taken off the Fishing Boat Register must be re-introduced onto the Register within two years of its removal otherwise the entitlement is lost to the owner. Sea Fisheries Policy & Management Division is currently examining this proposal and will be making a submission to the Minister setting out the possible options including the need to carry out a public consultation.

## ***Management of TACs and Quotas***

### ***Overview***

Fishing opportunities for each Member State are agreed on an annual basis in December at the EU Fisheries Council of Ministers. In this meeting, the Council and Member States agree the total allowable catches (TACs) and quotas (setting out for each Member State, the total tonnage of catch for certain species in specific areas of the sea that they are allowed to catch) for the following year on the basis of a proposal produced by the European Commission, informed by the best available scientific advice. It is the responsibility of each Member State to manage their fisheries within these quotas. The proposal is generally circulated by the EU Commission in October of each year although preparation for the December Council begins much earlier.

The driving ambition is to increase the number of stocks that are set at MSY (maximum sustainable yield) in accordance with the objectives of the CFP. Fishing at MSY levels means catching the maximum proportion of a fish stock that can safely be removed from the stock, while, at the same time, maintaining its capacity to produce maximum sustainable returns, in the long term.

In Ireland, quotas are a public resource and are managed by the Minister. The Minister decides on the management of fish quotas following consultation with industry representatives. The management policy is set by the Minister and any changes are subject to a detailed procedure of analysis and consultation.

Quotas are generally managed on a monthly basis with catch limits being set for each month. Consultation is carried out each month at the Quota Management Advisory Committee meeting involving representatives of the industry, the Department and the Sea Fisheries Protection Authority. As of July 2018, all Committee members and their stand-in representatives are bound by a Committee Conflict of Interest Policy and have submitted a signed declaration of interests form.

The introduction of the landing obligation involved a change in behaviour for fishing operators. Furthermore, changes to Ireland's quota management system were required to support the landing obligation i.e. where a vessel exceeds its catch limit, the excess catch retained on board and landed must be paid back by means of a deduction from the future allocation. In cases of large excesses over the catch limit, a payback ratio greater than 1 is applied.

### ***2020 TAC and Quota Negotiations***

The final agreement negotiated at EU Fisheries Council in December 2019 secured 195,000 tonnes of quotas worth €275 million for the Irish Fishing Industry for 2020. This was a balanced outcome, delivering on sustainability objectives and ensuring a strong result against the challenging backdrop of Brexit.

Key achievements of these negotiations included increases in quotas for a number of our important stocks – including Mackerel (41% increase), and Haddock (+30%), Monkfish (+7%)

and Megrims (+3%) in the Celtic Sea. In addition, an increase in mesh size to help juvenile fish and depleted stocks was introduced in the Celtic Sea in 2020.

### ***2021 TAC and Quota Negotiations***

TAC and quota negotiations for 2021 commenced at the July 2020 Council with a high level policy statement circulated by the Commission. A more detailed proposal, informed by the best available scientific advice, is generally circulated by the EU Commission in October of each year.

### ***Court Cases***

#### ***Crayden Fishing Company Ltd & Ors v Minister for Agriculture, Food and the Marine & Ors***

Following a request received from the Irish South & West Fish Producers Organisation (ISWFPO), a review was undertaken in 2017 of the policy on mackerel allocations between the Refrigerated Sea Water (RSW) Pelagic segment and the polyvalent segment.

Following full public consultation (in which 353 responses were received) and careful consideration of the issues raised, the Minister decided in July 2017 that where Ireland's mackerel quota in the annual TAC & Quota Regulation:

- is 90,000 tonnes or below, for 2017 and future years, the long standing 87%-13% share out in the allocation of mackerel quota between the RSW Pelagic segment and the Polyvalent segment will remain unchanged.
- Is above 90,000 tonnes, the share out will be adjusted so that the element in excess of 90,000 tonnes is shared out on an 80%-20% basis between the RSW Pelagic segment and the Polyvalent segment.

11 applicants took Judicial Review of the above decision to revise the mackerel quota distribution between two segments of the fishing fleet at the request of the ISWFPO. The case is being fully defended and is currently at voluntary discovery stage.

***Fitzpatrick and Flannery v Minister for Agriculture, Food and the Marine and Sea Fisheries Protection Authority***

This case concerns a dispute as to how the SFPA calculated the figure representing the total fish catch in respect of the species Nephrops (more commonly called Dublin Bay prawns) in a particular sea area called Functional Unit 16 ("FU 16") off the west coast of Ireland in the year 2017.

The Minister closed FU16 with respect to fishing for Nephrops from August 2017 onwards and a judicial review was taken mainly in respect of the methodology used in calculating the catch quantity. In October 2018, the High Court ruled in favour of the Minister and SFPA.

In June 2019, the Supreme Court granted leave to the Applicants to appeal to that Court directly from the High Court. The case was heard before the Supreme Court in February 2020 and judgment is awaited.

***Tom Kennedy and Neil Minihane v Minister for Agriculture, Food and the Marine.***

In December 2018, following a public consultation process in which over 900 submissions were received, the Minister announced that vessels over 18m will be excluded from trawling in inshore waters inside the six nautical mile zone and the baselines from 1 January 2020.

The Minister further announced that there will be a transition period of three years for vessels over 18m targeting sprat. This transition is to allow a period of adjustment for these vessels, as the sprat fishery is concentrated inside the six nautical mile zone.

A Judicial Review was taken however by two applicant fishermen challenging the validity of the Minister's Policy. The case was fully defended and an unfinalised judgement was issued on 31 July 2020 which is being fully examined.

## *Marine Strategy Framework Directive (MSFD)*

The Marine Strategy Framework Directive (MSFD) requires that biodiversity and seafloor habitats are at good environmental status (GES), meaning that the diversity, structure and function of marine life and environment is maintained and that human use of the marine environment is kept at a sustainable level. Habitats in Ireland are diverse and include large areas of reef, coarse sediments, sands and muds, each supporting different fish species and assemblages of marine organisms. The Department of Housing, Planning & Local Government (DHPLG) is the lead Department for MSFD. However, due to the cross-cutting nature of marine issues, DAFM is intrinsically linked into the process.

Under MSFD, our marine waters must be assessed against an agreed set of standards across a number of important environmental areas (e.g. biodiversity, fish stocks, contaminants etc.). Based on the assessment, appropriate environmental targets and indicators must be set and programmes of measures put in place to reach GES.

The current MSFD Programme of Measures (PoMs) was submitted to the European Commission in July 2016. The main purpose of the PoMs is to put in place actions and measures which will support the meeting of the environmental targets set out under Article 10 (establishment of Environmental Targets), leading to the achievement and maintenance of GES. Measures DAFM have been involved in implementing include the inside 6 nautical mile trawling ban from 2020 for vessels over 18m in length overall, implementation of the Landing Obligation and Multi-Annual Plans (Sea-Fisheries Policy and Management Division), and the Clean Ocean Initiative to remove plastics from the waters (Marine Programmes Division and BIM).

Ireland is required to take measures towards achieving and maintaining GES for its waters by 2020. The criteria for determining GES includes areas such as: integrity of the seabed, the status of commercial fish and shellfish stocks, and bycatch impacts on non-commercial fish and other marine fauna.

From mid 2019 to early 2020, work was undertaken on compiling data for the second cycle of MSFD and is being led by the Department of Housing, Planning and Local Government. This

resulted in a body of work showing the areas where it is considered that GES is being achieved and the areas where Ireland is not achieving GES.

Good Environmental Status for commercially exploited fish stocks is a descriptor used under MSFD. Ireland's progress towards GES between 2013 and 2018 has been evaluated and is included in the above public consultation. Although the analysis shows an improvement the general conclusion is that the status of commercial fish stocks is still not compatible with GES. The analysis covers a broader range of stocks (177) than that covered by the Marine Institute's Stock Book (74). Whereas the Stock Book focuses on those stocks of commercial interest to Ireland and which are the subject of negotiations on fishing opportunities under the CFP in December Council; the additional stocks examined under the MSFD include many spatially discrete small populations on which the status is unknown, and thus which cannot be said to be compatible with GES.

The Commission will soon decide on if Ireland's determinations of GES are acceptable. This process will eventually result in a new PoMs which take into account any developments in the GES observed since the last cycle of environmental status allocation.

The Sea-Fisheries Policy and Management Division sits on both the working group and the National Steering Group for MSFD. The Steering group is involved in shaping the overall approach and design of the report to the EU Commission as well as overseeing content, sources of data, targets, and initial assessment of possible alignment with GES.

## ***Corporate Governance – Marine Agencies***

### ***Overview***

The Assistant Secretary General has responsibility for Corporate Governance oversight of the following marine agencies: *Marine Institute (MI)*; *Bord Iascaigh Mhara (BIM)*; *Sea Fisheries Protection Authority (SFPA)* and *Aquaculture Licences Appeals Board (ALAB)*. *Funding for these agencies is provided through the Department's exchequer vote.*

### ***Marine Institute***

The Marine Institute is Ireland's national marine research agency established under the Marine Institute Act, 1991 *"to undertake, to co-ordinate, to promote and to assist in marine research and development and to provide such services related to marine research and development, that in the opinion of the Marine Institute, will promote economic development and create employment and protect the marine environment"*. The head office of the Marine Institute is in Galway. Other offices are located in Newport, Dublin, Backweston, Dunmore East, Castletownbere, Bantry, Killybegs, Greencastle.

### ***Bord Iascaigh Mhara (BIM)***

Bord Iascaigh Mhara (BIM) was established under the Sea Fisheries Act in 1952 and is the lead agency on sea fisheries development. BIM helps to develop the Irish seafood industry by providing technical expertise, business support, funding, and training and by promoting responsible environmental practices. BIM's mission is to grow a thriving Irish seafood industry; expand the raw material base, add value and develop efficient supply chains that together deliver on the Government's Food harvest 2025 targets for seafood and create sustainable jobs. BIM has six locations with a head office in Dun Laoghaire. Other offices are located in Clonakilty, Galway, Castletownbere, Greencastle, Killybegs.

### ***Sea Fisheries Protection Authority (SFPA)***

The SFPA was established by the Sea Fisheries and Maritime Jurisdiction Act 2006. The Sea Fisheries Protection Authority (SFPA) is statutorily responsible for sea fisheries and seafood safety legislation and is therefore an official agency of the Food Safety Authority of Ireland (FSAI) for the enforcement of food safety legislation in the seafood sector. The SFPA is independent of the Minister in the exercise of its functions. The SFPA has a three member executive authority. The SFPA has eight locations with a head office in Clonakilty. Other offices are located in Castletownbere, Dingle, Ros an Mhil, Killybegs, Howth, Dunmore East. An organisational capability review of the SFPA was completed in April 2020.

### ***Aquaculture Licences Appeals Board (ALAB)***

The Aquaculture Licences Appeals Board was established on 17 June 1998 under Section 22 of the Fisheries (Amendment) Act, 1997. The function of the Board is to provide an independent authority for the determination of appeals against decisions of the Minister for Agriculture, Food and the Marine on aquaculture licence applications. A person aggrieved by a decision of the Minister on an aquaculture licence application, or by the revocation or amendment of an aquaculture licence, may make an appeal within one month of publication (in the case of a decision) or notification (in the case of revocation/amendment). The Aquaculture Licences Appeals Board is made up of 7 board members including the chair who are all appointed by the Minister. The current Chairperson is Ms. Imelda Reynolds. All Board members are engaged on a part-time basis.

### ***Ocean Wealth/Blue Growth***

#### ***Integrated Marine Policy/Blue Growth/Harnessing Our Ocean Wealth (HOOW)***

The Sea Food Policy and Management Division is responsible for coordination of DAFM's (Fisheries/Seafood) inputs into wider cross Governmental Integrated Marine Policy / Blue Growth initiatives, specifically in respect of the seafood related target and objectives contained in 'Harnessing our ocean wealth' (HOOW), Ireland's integrated marine plan (IMP). The Department's marine agency, the Marine Institute, also plays a key role in implementation of HOOW generally.

The work of the integrated marine policy is overseen by the cross Departmental Marine Coordination Group (MCG) chaired by the Minister for Agriculture Food and the Marine and convened by the Department of the Taoiseach. Underpinning these developments, the Government approved a Marine Planning Policy Statement (in 2019), which sets out the reforms underway to provide a modern, integrated marine planning system. A Marine Planning and Development Bill is also in preparation, and will sit alongside a Maritime Jurisdiction Bill and the National Marine Planning Framework. Together, these measures will provide a new fit-for-purpose framework for the sustainable management of the sector in the decades ahead. The MCG has commissioned a review of HOOW to inform future marine policy and (subject to

Government approval) the preparation of a successor plan to cover the period 2020-30 is in the pipeline, this work was paused but not cancelled due to Covid-19 and resumed in June 2020.

### ***Upcoming Key Events:***

#### ***1. EU Maritime Day Cork 2020 – Cancelled due to Covid-19***

The 2020 European Maritime Day (EMD), incorporating the annual our ocean wealth summit, was scheduled to take place on 14-15 May 2020 in the City of Cork. EMD is the annual two-day event during which Europe's maritime community meet to network, discuss and forge joint action on maritime affairs and sustainable blue growth. A full programme of events and high level workshops which will include contributions from EU Commissioners, senior officials and leading international marine experts will be available in late February.

<https://ec.europa.eu/maritimeaffairs/maritimeday/en> . The above event was cancelled by the European Commission in consultation with the Minister and Cork City Council, due to Covid-19.

#### ***2. SeaFest Cork 2020 – Cancelled due to Covid-19, expected to resume in 2021***

SeaFest has grown from humble beginnings to become one of Ireland's premier free annual marine festivals attended by up to 100,000 people over a 3 day period. This year's events were scheduled for 15-17 May to follow on from EU Maritime Day which was also due to take place in Cork in 2020 and incorporate a series of marine-related exhibits, land and water based family friendly activities and information seminars etc. A full programme will be published in early March 2020. The above event was cancelled by the Ministerial decision, due to Covid-19.

#### ***3. Our Oceans Conference – Palau 17-18 August 2020- Deferred due to Covid-19***

This annual conference which has been attended by previous Ministers for Agriculture, Food and the Marine is focused on generating commitments and taking actions to maintain the sustainability of our oceans. Since 2014, Our Ocean Conference has successfully generated commitments by many States relating to marine protected areas. Our Ocean 2020 will focus on six Areas of Action, convening partners from across the globe to identify solutions to manage

marine resources, increase the ocean's resilience to climate change and safeguard its health for generations to come. This year's conference has been deferred to Dec 2020 at time of writing.