



SEA-FISHERIES  
PROTECTION  
AUTHORITY

Tuesday 11 May 2021

Thank you for the invitation to appear before this committee. We welcome interest in our work. I am joined today by

- Andrew Kinneen, Authority member.
- Olive Loughnane, Director of transformation.

By way of introduction, Ireland's seafood economy is worth almost €1.1 billion annually and supports 16,000 livelihoods, predominantly around the coast<sup>1</sup>. Good regulation is pivotal to the achievement of the collective ambitions for the development of Ireland's seafood sector. It ensures that Ireland's shared marine resources are sustainable for future generations, and that consumers at home and abroad can consume Ireland's seafood safely.

As the regulator for the sea-fisheries and seafood sectors, the Sea-Fisheries Protection Authority (SFPA) plays a key role, promoting compliance, verifying it and, where necessary, using the powers given to us under legislation, enforcing sea-fisheries and seafood safety laws for all areas under our remit. The remit of the SFPA covers all fishing vessels operating within Ireland's 200-mile limit, almost 2,000 Irish registered fishing vessels, wherever they operate, and all seafood produced in Ireland's seafood-processing companies.

The SFPA has a very broad and extensive remit, including:

- Regulation of commercial sea-fishing industry and fisher's compliance with the EU Common Fisheries Policy (CFP).
- Official controls of food safety for all wild & farmed fish including classification of wild & farmed mollusc areas, and approval of Irish food processing establishments to place food on the market



- Food trade controls, including Catch-& Health certification of Irish fish exports, and also import controls
- Control of compliance with maritime environmentally protected areas
- Infrastructure provision to facilitate fishers / vessel operators' compliance with their obligations including development and support of their on-board IT systems to facilitate their statutory declarations.
- Data provision to the state, and EU on sea-fisheries activity, based largely on fishers' declarations
- Advice to government as regards policy in fishery control, food safety controls, food trade controls.
- Fishery control (flag state) for all Irish registered fishing vessels as well as the coastal state for fishers from other EU Member States, and Third Countries including all UK registered vessels.

Currently the SPFA employs 155 people across the major fishing ports around the coast and in our headquarters in Clonakilty – colleagues who are committed and, in the case of our sea-fisheries protection officers, whose work can often be done in difficult and challenging circumstances.

Our role has grown and expanded substantially since our establishment – most recently due to Brexit. Fishery products were amongst the first to require export certification. The SPFA has been to the fore of implementing a Northern Ireland protocol as the landings of Irish owned NI-registered fishing vessel to their home Irish port are now categorised under EU regulations as an import of food to the EU from a Third Country fishing vessel.

The legal onus is on the fishing industry to comply with national and EU sea-fisheries and seafood safety regulations. As the control authority the SPFA's systems are designed to provide oversight with checks in place throughout the catching, storage, transport and processing processes. They are risk-based controls, which minimise the risk of non-compliance by industry but do not guarantee it.



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PROTECTION  
AUTHORITY

We have worked closely and in cooperation and collaboratively with the industry to promote compliance. The SFPA does not have the resources to be on every fishing deck at every fishing haul, nor every landing of every vessel so uses risk based controls.

### **DRAFT GENERAL SCHEME OF SEA FISHERIES AMENDMENTS BILL 2021**

EU legislation, Regulation 1224/2009, sets out general principles of sanctions needing to arise from infringements of the rules of the Common Fisheries Policy to be immediate, proportionate and dissuasive. An overriding principle is that of depriving operators of the economic benefit derived from their infringement. In the case of serious infringements, in addition to national systems for administrative or criminal sanctions, MS are obliged to ensure the imposition of points on both license holders and masters. This Bill moves the latter provision forward. For the first time, points can be assigned to masters of vessels. What is proposed largely mirrors the system put in place to allocate points to licence holders of vessels involved in serious infringements within SI 318/2020, applying a similar model to allocate points to masters of those vessels.

Under the points system, when the SFPA or the Irish Navy, which undertakes at sea inspections, believe a serious infringement to have taken place, we are obliged to describe those events to an independent Determination Panel comprising appointees of the AG. The panel also receives input from (in this case) the vessel master, and then determines if a serious infringement has taken place. There is a right of appeal to a Ministerially appointed appeals officer, again separate and independent to the SFPA. In the event that the Determination Panel decides a serious infringement has taken place, the SFPA is obliged to notify the relevant authorities of the need to allocate the points.



This Bill also contains provisions for data sharing from Revenue to SFPA. This acknowledges the serious connotations of fishery infringements, which can be wider than exceeding quota or depleting immediate stock levels and can have further fiscal food and environmental impacts. These necessitate synergies across the various specialised regulators of the state. This is also identified by the OECD in its report on ‘Evading the net: Tax Crime in the fisheries Sector’. Currently the SFPA notify Revenue of fishery infringements where we perceive risk of tax evasion, but they cannot share any information with us. These draft provisions would enable Revenue to notify SFPA not only of the outcome of any investigations which might provide data to support quantification of non-compliance, but also in instances where Revenue detect indications of fishery non-compliance during their control of fishers and processors.

The SFPA use whatever regulatory tools are given to us by law, including the points system to carry out our statutory obligation. This Bill enables Ireland to meet its obligations under CFP around masters’ points and we welcome the additional scope it gives us to enforce compliance and help to ensure a level playing field for the fishing industry – regardless of size or sector.

#### **Article 61.1 Control Plan revocation**

The weight of fish landed is an important part of a fisheries management system. Under EU law (Article 60 of regulation 1224/2009), the accuracy of the weighing of catches landed is the responsibility of the operator. That law states that all wild-caught (i.e. not farmed) fishery products must be weighed at landing before transport. There are a number of potential derogations.

In 2012, the SFPA submitted and obtained Commission approval for derogations, namely five plans designed to ensure control commensurate with non-compliance risks. These five plans were a Control Plan, and two sampling plans and two Common Control programmes, with Belgium and France. We consulted extensively internally, and with the Irish fishing producer organisations.

Under the Control Plan, from 2012 until 2021 weighing following transport to Irish establishments was allowed once it took place in a premises – usually a processor - permitted by the SFPA for that



purpose. The weight derived would be used by fishers to make their landing declarations, and to reckon uptake from available quota.

The European Commission decided recently to revoke the derogation for demersal and pelagic fisheries with immediate effect as it deemed the risk of industry's non-compliance with the rules of the common fisheries policy too high. This decision arises from an Administrative enquiry the the commission requested that Ireland carry out following an audit in Ireland in 2018 aimed at monitoring the implementation of Ireland's controls for Pelagic fisheries and blue fin Tuna. The administrative Inquiry looked at possible underdeclaration of catches between 2012 and 2016 and investigations of the same, sanctions for operators, effectiveness of the Irish sanctions system, effectiveness of the Irish control system and control of the recreational fishery for blue fin Tuna.

In particular, commission identified that the operators did not have in place a "weighing system fit for purpose" and the audit identified manipulation of weighing systems. Moreover, although aware of those shortcomings, Ireland did not take appropriate measures to address such noncompliance, in particular by withdrawing the permission to weigh after transport. Consequently, the control plan does not minimise the risk of systematic manipulation of weighing pelagic catches in Ireland and the under-declaration of catches by operators. Therefore, Ireland could not guarantee an effective control of landed quantities of catches and minimise the risk of noncompliance with the rules of the common fisheries policy.

The revocation centres around post-transport weighing of pelagic landings, specifically including landings of shoaling oily fish of the species mackerel, horse mackerel, herring, blue whiting and sprat. In contrast to traditional fish boxes, these fish landings are highly mechanised involve pumping fish ashore in bulk with significant quantity of transport water and involve practical challenges when it comes to trying to verify the quantity of fish involved. It is easier to hide fish because it is harder to accurately quantify the amount of fish moving rapidly mixed with water.



The weighing of fish and water, or conversely draining of water from fish has been an issue over many decades. The state's challenges in this regard were at the centre of the decision to establish a standalone independent regulator, the SFPA.

Ireland's pelagic fisheries are amongst the world's most valuable fisheries and the SFPA devotes a significant portion of its inspection resources to those landings. The SFPA takes its commitments under the Common Fisheries Policy very seriously. Right across the organisation, from management through to sea-fisheries protection officers at the various ports, everyone worked hard to move controls forward to get ahead of the challenge of meaningful control of pelagic weighing. At governance level this involves allocating control resource far in excess of other type of landing.

The SFPA have been working with the Commission and EU control partners including EFCA, and with the support of government, to improve Ireland's compliance assessment capabilities. This has included a significant expansion of the SFPA's detection and inspection resources in recent years, as well as changes to fisheries controls to ensure Ireland has a strong regulatory system.

We continuously re-appraise and build on any learnings all the time working towards improving and focussing controls to manage non-compliance risks. We align our approach to complement the work of Marine Survey Office, the competent authority for ullage tables, and also with the NSAI for the accuracy of scales and managing the proven risk of tampering with weighing operations. We had already moved to weighing of some pelagic landings and were intent on moving to the weighing of all pelagic landings prior to transport –within the overall implementation of the derogation – and we had clearly and repeatedly flagged to industry that retention of the derogation was reliant on confidence in industry's compliance with the regulations.

The accurate weighing of catches remains the responsibility of industry. The EU's decision, however, will involve changes to weighing practices impacting the demersal fisheries more immediately. We are working to ensure that industry can introduce these efficiently and in a way that assures compliance with EU regulations and have been meeting with the industry.



## Review of the Organisational Capability of the Sea- Fisheries Protection Authority

The SFPA commissioned an independent comprehensive review of the organisation which was completed in 2020, the first such review of the organisation, to ensure that it can effectively and efficiently deliver on its statutory mandate in sea-fisheries protection and seafood safety, recognising the significant changes that have taken place since its establishment in 2007 in terms of the expansion of our remit and the scale of the organisation. The SFPA has grown, for example, from an organisation employing 77 people with a budget of less than €11 million to a budget of €24.8 million in 2021, with staff numbers currently at 150 and expected to increase by year end.

The PwC report and its recommendations provide a clear path for the changes that are required to ensure that the organisation can effectively and efficiently deliver on our remit as the sea-fisheries regulator into the future. Several actions which would enhance the organisation and increase its efficiency and effectiveness were identified. In all, the review made 46 recommendations which can be classified into 6 pillars. The implementation of the review is included in the Program for Government and the SFPA are committed to delivery of all 46 recommendations. The necessity for change is widely accepted at all levels within the organisation. The delivery of the recommendations is overseen by an independent three-person Advisory Board appointed by the Department of Agriculture, Food and the Marine. The Director of Transformation, Olive Loughnane, who is present here today was appointed in January of this year. She is responsible for managing the implementation of the review recommendations.

Of the 46 recommendations made in the review 8 are complete, 26 are in progress and 15 have yet to commence. The 15 recommendations that have yet to commence are dependent on the completion of other recommendations or can only be completed at certain points of the year.



The fact that the environment in which the SFPA operates is a challenging one that is heavily influenced by EU and legislative requirements, was acknowledged by the authors of the review. Work on the implementation of the review does not occur in isolation within the organisation. Some of the challenges facing the organisation have already been referenced in this presentation. The Industrial Relations landscape is another challenge that needs to be addressed. Three of PwC's recommendations specifically address the IR challenges that currently exist within the organisation but it is important to acknowledge that several others, some of which are in progress, will require a high level of internal consultation and collaboration in order to achieve their desired objectives.

Management are currently engaging in mediation with union representatives at the Workplace Relations Commission to address Industrial Relations matters.

Management are committed to resolving matters and engaging with all aspects of the state Industrial Relations mechanisms to secure a mutually acceptable outcome to the current challenges.

### **Closing**

The SFPA is committed to the fair and effective regulation of the sector, protecting and conserving fisheries resources while supporting a sustainable commercial fishing sector and a level playing field for all. The European Commission's recent decision is a clear marker of better standards of compliance with fisheries controls across the EU, and we support and welcome this. The SFPA takes its commitments under the Common Fisheries Policy very seriously. We also acknowledge the support of the Government, the EU Commission and EU control partners including EFCA, and most importantly our colleagues across the SFPA, as we strive to continuously improve Ireland's compliance assessment capabilities to safeguard a strong regulatory system.



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Chair**



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<sup>i</sup> <https://bim.ie/news-and-events/news/bord-iascaigh-mhara-publish-annual-business-of-seafood-report/>

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