

# Fisheries Enforcement in England



REPORT BY THE COMPTROLLER AND AUDITOR GENERAL  
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# executive summary

## Introduction

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- 1 Fish stocks around the United Kingdom and in European waters are under increasing pressure with some under threat of total collapse. **The European Union's Common Fisheries Policy** is the main determinant of fisheries regulations within the waters of the United Kingdom. These regulations seek to sustain fish stocks by controls such as quota limits on the amounts of particular stocks which may be fished in defined areas; and technical measures which restrict fishing methods and types of gear in order to reduce catches of undersized and immature fish. Restrictions on access to fishing areas, either permanently or by season, may also be imposed. **Member States** are required to enforce and monitor compliance with all these regulations.
- 2 In December 2002, European Union Ministers agreed reforms to the Common Fisheries Policy to improve conservation of fish stocks by tightening controls. These will include increased emphasis on penalising Member States that do not implement adequate enforcement measures.

Beach launched fishing fleet, Hastings



- 3 This report examines the role of **the Department for Environment, Food and Rural Affairs (the Department)** in enforcing fisheries regulations on vessels fishing in the waters around the English coast and in respect of fish landed at English ports<sup>1</sup>. The report examines the effectiveness of the Department's methods in detecting, dealing with and deterring infringements of regulations; and the management of its enforcement activity. A European Commission report<sup>2</sup> on the adequacy of Members' enforcement systems, based on reports submitted by each Member State, showed that the United Kingdom compared favourably against many other Member States. Areas identified as requiring improvement were resources for land based operations, systematic cross checking of catch information, and effective penalties. We consider these areas in this report.

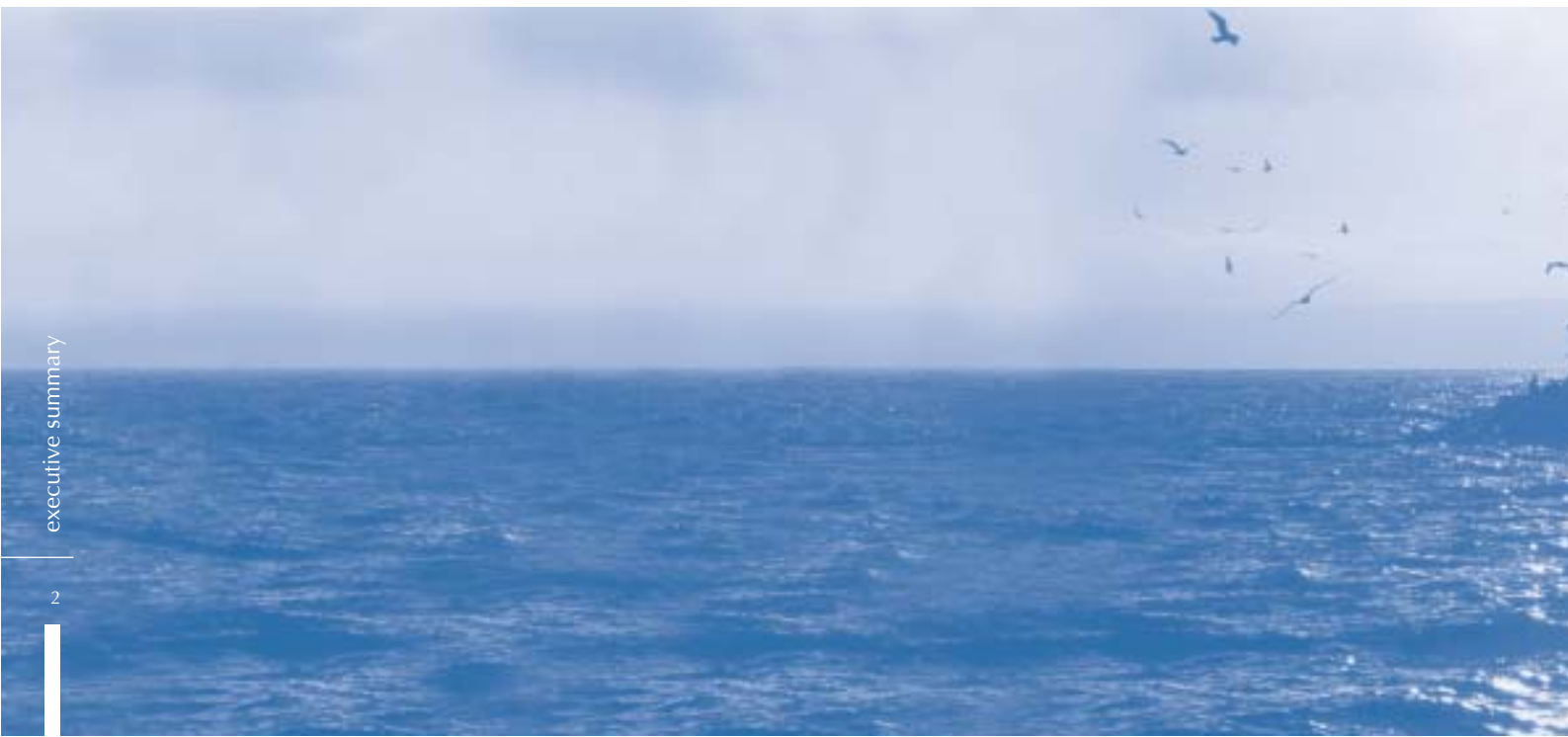
<sup>1</sup> Fish caught in English waters may be landed in other countries and so enforcement will be dependent on robust checks elsewhere.

<sup>2</sup> COM (2001) 526 final - Report on the monitoring of the Implementation of the Common Fisheries Policy - Fisheries Control in Member States.

- 4 The Department provides statistics and reports on implementation throughout the United Kingdom, to the Commission; and negotiates on behalf of the United Kingdom with the Commission. The Department spends around £11 million a year on fisheries enforcement in England. The Sea Fisheries Inspectorate co-ordinates and directs inspections and surveillance at sea, and aerial and satellite surveillance; and carries out land based inspections of landings of fish and vessel documentation of catches. **Fishermen** have to complete and submit accurate records of the fish they land to ensure that the uptake of stocks can be monitored, along with information on the areas fished and the gear deployed.
- 5 The total value of fish landed in the United Kingdom by the United Kingdom fishing fleet in 2001 was £424 million of which £148 million was landed into England and Wales. Sustainable fish stocks are essential for economic survival. For regulations to be fully effective they need to be regarded as fair and sensible. Regulations that lead to action considered by many fishermen to be inconsistent with conservation objectives may encourage non-compliance. For example, fish - many of which are dead - may be discarded, that is returned to the sea (known as discards), to avoid exceeding quota or to make best use of quota by landing only the better quality fish.

## The level of compliance

- 6 In both 2000 and 2001 the Department recorded some 250 infringements of regulations. Half related to inaccuracies in recording catches, the remainder mainly to breaches of technical measures such as net sizes or of licensing and registration requirements. However, scientific estimates of misreporting of landings, academic research and our own discussion with fishermen suggest that the number of infringements recorded does not give the full picture of compliance.
- 7 The Department has a difficult task in enforcing regulations on a mobile industry in a geographical area which is large both in terms of size of coastal waters and number of potential landing sites. Since the number of undetected infringements is impossible to determine, the effectiveness of enforcement activity is difficult to measure in absolute terms. But it is possible to calculate the probability of inspection, and to compare the penalties imposed with the gains from non-compliance as likely means of deterring infringements.



## 8 We found that:

- i. There is a very low probability (less than one per cent chance) that on any day of fishing a vessel will be subject to a physical inspection at sea and around six per cent chance of being inspected on land;
- ii. There is a much higher probability (60 - 70 per cent) that submitted documents will be cross checked against each other, fish available on the market and other information such as sightings at sea or satellite information;
- iii. Some infringements can be very sophisticated, and involve both falsifying documents and collusion with other parties such as those purchasing the fish. They will be difficult to detect through inspections, but may be uncovered as the result of surveillance or tip-offs;
- iv. When detected, infringements are most likely to result in a written warning. 49 per cent of cases were dealt with in this way in 2000, and 52 per cent of cases started in 2001;
- v. 122 of the 124 cases taken to court in 2000 and 2001 led to fines. An analysis of a sample of fines shows that typically a fine will be about 1.7 times the value of the infringement, but the low probability of detection and prosecution in the first place means that potentially the economic benefits of infringement may outweigh the risks in the view of some fishermen.

## The effectiveness of enforcement

- 9 The current methods of enforcement used by the Department are satisfactory in that they comply with European requirements. However, some factors such as the current size of fishing fleets operating in European waters and resources available to the Department impact on the extent or effectiveness of checking. For example:
  - i. It is not possible to physically inspect enough vessels to ensure that all landings are accurately recorded;
  - ii. In isolation documentation checks are unlikely to uncover offences such as misdeclaration of the location, type or quantity of fish caught. However in combination with other sources of information, such as satellite surveillance, they can be a useful enforcement tool;





- iii. The Department lacks flexibility in the way it can deploy resources and people. This is impacting on its ability to reach its targets for land inspections. For example expenditure controls would prevent it from reducing inspections at sea (which count as scheme expenditure) and using the money saved to increase land inspections (which count as running costs), if this were deemed more effective in particular circumstances;
- iv. Departmental rules on staff mobility restrict the flexibility with which it may move staff between areas of greatest need. Currently, the Department's deployment of inspectors does not reflect the distribution of landings by volume. For example, whilst ten inspectors cover landings of 13,000 tonnes in the South of England, there are only 15 inspectors covering landings of 47,000 tonnes in the South West. However the deployment of inspectors also needs to take into account an assessment of risk including the number of vessels, the number and value of landings, quota restrictions or number of landing sites which may change and are reasons for the need for flexibility.

**10** We found that other countries face similar problems and have used a number of techniques to improve the effectiveness of enforcement activities, some of which have been adopted in whole or in part by the Department and others which are not directly applicable because of the structure of the United Kingdom fishing industry or legal system:

- i. Placing restrictions on where fish may be sold. The Netherlands, for example, has a reduced number of fish auction sites which makes it easier to focus inspection activity. The Department is currently consulting with industry to determine whether a system of registered buyers and sellers of fish should be introduced;
- ii. Use of observers on vessels. The United States of America, Canada, Norway and New Zealand use observers on vessels to collect scientific data but also to note infringements. Since fishermen appear to be sceptical about the scientific data, having scientists on board might bring better buy-in to conservation data, although success is dependent on the independence of the observers being maintained. The Centre for Environment, Fisheries and Aquaculture Science operates a scientific programme to monitor the level of discarded fish and there are plans to extend the programme to a limited extent. Its purpose, however, is not to identify and report infringements. The Department believes that significant observer coverage of the larger vessels in the fleet would be extremely expensive;
- iii. Adopting Individual Transferable Quotas which in effect give property rights to individual fishermen to catch and sell specific quantities of fish. New Zealand and Iceland have adopted such quotas, and have noted an increase in the number of fishermen willing to comply with regulations and inform on known offenders. The Department considers that the system here, while different, achieves a similar effect;
- iv. Increasing the involvement of the industry in enforcement activity. In the United Kingdom, Producer Organisations determine what fines, if any, will be imposed on their members for exceeding quota limits. However, in the Netherlands fisheries inspectors and fishermen's groups work together more closely. For example, inspectors report infringements to the fishermen's groups who manage quotas, and who impose pre-determined sanctions aimed at removing economic benefit;





- v. Allowing landings of over quota fish but using the profits to help fund enforcement or scientific research, which may encourage more widespread compliance for example. However, this would conflict with current European Union Legislation and is not therefore an option available to the United Kingdom.

**11** The Department has improved enforcement by:

- i. Satellite technology which significantly aids the monitoring of fishing vessel movements. The number of vessels to be covered by the system will approximately double by 2005, as the length of vessels required to carry position monitoring equipment is reduced;
- ii. Relaying surveillance data from headquarters to Royal Navy Fishery Protection Vessels and port offices every 2 hours, 24 hours a day, seven days a week;
- iii. Introducing new requirements such as the Designated Port Scheme (which requires larger vessels to land catches at specified ports<sup>3</sup>) to make it easier to target landing inspections of larger vessels;
- iv. Working with other fisheries authorities through joint operations, sharing information and ensuring that infringements are prosecuted in home ports;
- v. Co-ordinating available resources such as patrol vessels, satellite surveillance and aerial surveillance to allow inspection of United Kingdom registered vessels that seek to avoid inspection by rarely, if ever, entering British Fishing Limits. Such vessels have been targeted and inspected in international waters;
- vi. Maximising the element of surprise, by boarding vessels at short notice, or at night, whilst working within safety limits determined by the inspectors; and
- vii. Hiring boats from other inspection authorities such as Sea Fisheries Committees and using the Department's inspectors on board to carry out inspection and surveillance.

**12** The Department is considering two other proposals which we believe would help to strengthen the existing system:

- Introduction of a system whereby only agents authorised by the Department can buy and sell fish, with such agents having to provide documentation for the purpose of cross checking between landings and sales;
- The introduction of administrative penalties such as temporary suspension of fishing vessel licences.



<sup>3</sup> Within certain hours or for four hours notice to be given if landing outside designated hours or at a non designated port.



# Conclusions Recomm

**13** Sea Fishing is one of the most highly regulated industries in the United Kingdom and fisheries regulations are becoming increasingly complex. The Better Regulation Task Force<sup>4</sup> has stated that good regulations and their enforcement should meet the five principles of: transparency; accountability; proportionality; consistency; and targeting. The Department has done much to ensure that it abides by these principles. Our recommendations take account of further opportunities for the Department to apply the principles of Better Regulation, where appropriate in partnership with the devolved fishing administrations in the United Kingdom.

1. The Department should record infringements detected at district level on a consistent basis. This would provide a basis for better analysis and understanding of the level of non-compliance; help target enforcement activity; and give assurance that all cases are being dealt with appropriately.
2. Other enforcement agencies such as Her Majesty's Customs and Excise use a wide range of data to make estimates of the level of non-compliance with regulations and to help assess the effectiveness of its enforcement activity. The Department should consider whether it could obtain information from other bodies such as the Sea Fish Industry Authority to use for this purpose.
3. Effective enforcement may be improved by co-operation with other fishing authorities. The Department has made efforts to develop relations with other countries and maintains close contacts with the Scottish Fisheries Protection Agency (the Agency) and the Northern Ireland Fisheries Inspectorate. In the case of the Agency, there may be scope for sharing and developing performance measurement techniques to assess effectiveness.
4. To improve the effectiveness of enforcement activity, the Department should look at increasing the use of landing patterns and surveillance information to target individual vessels that are suspected of breaching regulations.
5. The Department should use the Regional Advisory Councils to be established at European Union level to help inform development of enforcement practice and draw on some of the practices used in other countries to encourage more widespread support from the industry for effective management and enforcement of fisheries regulations. For example, the Department could explore whether there is scope to work

<sup>4</sup> An independent body that advises Government on regulatory issues including how to improve the effectiveness and credibility of government regulation.



# & endations

more closely with United Kingdom Producer Organisations in undertaking its inspection activities along the lines of the Netherlands' approach. In The Netherlands infringements identified by inspection activities are reported to fishermen's groups, who impose pre-determined sanctions aimed at removing economic benefit.

6. The Department should continue to look at the value of Individual Transferable Quota systems where fishermen own rights to catch and sell a specific quantity of fish, giving them a personal interest in conserving stocks and reporting infringements as the quota becomes their individual property rather than a collective one, taking account also of the European Commission's current work in this area.
7. As discarded over quota fish is often already dead or dying when thrown back into the sea, the Department should consider whether there would be benefit in seeking change in current European Union enforcement legislation to allow landing of such fish but with proceeds being used to fund research or greater enforcement activity.
8. Currently prosecution through the Courts takes a long time and the penalties imposed may not reflect the economic gain of non-compliance, particularly when the low probability of detection is taken into account. The Department should increase the options for pursuing and penalising infringements, for example through its current consideration of administrative penalties.
9. The Department has sought to contain the costs of enforcement at sea by contracting the Royal Navy to carry out this work. Its present contract with the Royal Navy runs until March 2008 but should be subject to a market test before expiry to ensure that the Royal Navy continues to offer a cost-effective solution.
10. The Department should review the role of the Sea Fisheries Inspectorate and the range of tasks it performs, along with the enforcement and related activities of other agencies including the Sea Fisheries Committees and the Environment Agency. It should also consider its current deployment of local Inspectorate staff to confirm that deployment maximises the likelihood of detecting illegal landings of fish, and is soundly based on an evaluation of relative risks across all areas.