

# EXECUTIVE COUNCIL

## CONFIDENTIAL

**Title of Report:** Introduction of flexible *Illex* licences for FI Trawlers  
**Paper No:** 289/10  
**Date:** 16 December 10  
**Report of:** Director of Natural Resources

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### 1.0 Purpose

This paper proposes the introduction of ‘flexible’ *Illex* licences for Falkland Island registered trawlers. This paper is largely a resubmission of a paper which was first considered in March 2009. Apart from this paragraph the only substantive new text has been added in sections 4.11 – 4.12

### 2.0 Recommendation

That Executive Council be advised to approve the implementation of flexible *Illex* licences for Falkland Island trawlers, with licence fees to be charged pro rata on days fished.

### 3.0 Summary of Financial Implications

No cost implications. A small amount of additional revenue may be generated.

### 4.0 Background

- 4.1** *Illex* licences have been offered for both specialised squid jiggers and for trawlers. Most catching is done by jiggers and in some years no trawlers have operated. The number of jigging licences has declined from a peak of 125 to less than 50 in 2008 and 2009, although there was a resurgence to 70 odd in 2010. Hence, there is arguably some spare capacity in the fishery although this is not always readily quantifiable in the *Illex* fishery. In FI zones there is clearly far less fishing pressure than there used to be. In any event the *Illex* fishery as with other squid fisheries relies primarily on within season conservation measures. If it looks as if there are going to be insufficient squid left to spawn the season can be closed early. In any event the implementation of this proposal is unlikely to result in any greater fishing effort than would be the case if we had a queue of serious licence customers with hard cash!

**4.2** *Illex* licences have ‘traditionally’ been sold for the full season 15 February – 15 June. This works better for specialised jiggers than for trawlers which can operate on a range of species. In the past there have been periods when jigger operators could ‘cherry pick’ short period licences covering periods of optimum catch rates. For example, some years ago an additional number of jiggers were licensed for c. 6 weeks for a reduced licence fee. On the plus side this possibly generated additional revenue, although it is unknown how many of the vessels might have paid full fees had they not received short period licences. On the down side it upset a number of long standing customers who paid full fees for the full season. During the period of peak catches they suddenly found themselves competing with an influx of vessels. There is a density effect and if the fleet is reduced catch rates for remaining vessels can increase significantly, so are likely to be depressed by an increase in vessel numbers. The current proposal would allow flexible access for a limited number of Falkland Island trawlers. There are a maximum of 18 vessels and only a handful are likely to take up the option. Trawling for *Illex* in FI zones has some, but limited, attractiveness.

**4.3** The basis of the proposal is to allow FI trawlers to fish for any period within the recognised *Illex* season, and pay a fee which would be charged pro rata for the number of days fished.

**4.4** The benefits of the proposal are seen as being:

- An additional opportunity for FI trawlers. This is their main fishing ground; they don’t have the alternatives that some foreign vessels have.
- Most FI trawlers are involved in the *Loligo* fishery so purchasing an overlapping *Illex* licence is unlikely. This proposal gives the flexibility of a few weeks *Illex* fishing at the end of the *Loligo* season.
- The reduction in jigger licences means there is arguably some spare capacity.
- It encourages FI companies to become more involved with *Illex* which is one of the main resources.
- It is a benefit for FI registered vessels and there are advantages in having a FI fleet.

**4.5** Arguments against the proposal include:

- Take up is likely to be low.

- It is seemingly at odds with the new ITQ era with access being determined on flag of the vessel rather than ownership of ITQ. *Illex* has yet to enter into the ITQ system.
- It may be seen as discrimination against foreign vessels, this is explored further below.

**4.6 Discrimination:** The question arises as to whether the Falkland Islands can positively discriminate in favour of its own vessels in this way, without making the opportunity available to all. The reasons for not throwing open the doors generally were set out in 4.2. Under the Law of the Sea any ‘surplus’ resources not caught by the Coastal State, have to be made available to other parties to catch. However, fees may be levied and conditions imposed for conservation etc. If any preferential treatment can be granted then it is likely that this can be applied to FI registered vessels. As a matter of policy it would probably be possible to decree that FI vessels, for example, are exempt from licence fees (locally registered vessels normally employed in trading are exempt from harbour dues). The proposal could be a variation on that approach. The rationale for preferential treatment might be on the basis that FI registered vessels will be owned by FI companies which are liable for FI taxation unlike foreign vessels. The complication with that possibly arises if a FI company charters a foreign vessel but generates significant tax revenues in the Falklands as a result of its operations.

**4.7** The argument on taxation may be sufficient defence in terms of defending the proposal if it is challenged by foreigners. It might be more difficult to defend if attacked by a FI company involved with chartering foreign vessels. However, the proposal has been supported by FIFCA, so that may not be such a strong argument for the present.

**4.8** In the past a points system was used to assist in determining licence allocations. This gave some preference to FI registered vessels in that there were more points for a FI flag vessel than a EU flag vessel. However, this was a matter of degree as the scheme did not prohibit foreign vessels, it just gave them less points. What is clear is that a UK vessel can not be treated any differently to any other EU vessel (there is one UK registered vessel).

**4.9** This policy if implemented may change when and if the *Illex* fishery enters the ITQ system. The use of short period licences may also have to be reviewed as one representative of a jigging fleet has contended that there are now too few jiggers to easily locate the squid.

**4.10** In summary, in relation to any potential charge of discrimination it is proposed to vary the licence fee applicable to the licence rather than any other aspect of the licence. The licence application and issuing procedure will be identical for FI and non-FI vessels. The licence conditions will be the same for FI and non-FI vessels. The aspect

which will be different is that FI vessels will only pay licence fees based pro rata on days used. The basis for this variation is that FI vessels are owned by companies registered in the Falkland Islands and which are liable for FI corporation tax. At least that is the argument which could be used in relation to any foreign challenges, it is less likely to be used locally in case it sets a precedent!

4.11 As indicated in paragraph 1 this paper is a resubmission of an issue first considered in March 2009. Prior to submission to Exco the paper was considered by the fishing industry. That took some time although it eventually received industry support. In 2009 Exco deferred implementation of the proposal pending resolution of the issues set out. The economic analysis was not carried out and subsequent EXCO references appeared to take a modified stance concentrating on licence or access conditions for trawlers in the *Illex* fishery. A full economic analysis would be lengthy and complex. A few of the issues include;

- In general joint venture companies which own FI flagged vessels are the companies which show better financial performance, have greater profits and pay more FI tax. To some extent this may be an artefact of such vessels being engaged in the Loligo and Toothfish fisheries. However in a number of cases the vessel ownership model seems to outperform charter arrangements. It might not have to be ownership of a FI vessel but that is the obvious option for a FI company.
- The Veterinary Section provides a number of services to FI vessels. There might be a question as to whether that level of service could change if there were no FI vessels for example. However 2 veterinary officers would seem to be the minimum and providing services to FI fishing vessels brings in useful revenue.
- Similar arguments might apply in the case of operating a FI shipping register and providing an EU accredited public health laboratory. Certainly the latter, and possibly in both examples, it is useful to have a critical mass to make the service work. If there were no FI fishing vessels to use the laboratory services and share costs, the only user might be FIMCo.
- There is a major intangible in that being perceived as being a fishing nation often seems to have much more to do with having a fishing fleet than operating a fishing zone. Coastal states clearly have rights however fishing nations often have a strong voice in international developments affecting fisheries. Similarly the flag of a vessel often has more to do with determining the origin of the catch than the location of where the catch was taken.

It may be possible to provide a balance sheet on all these aspects although they are likely to require numerous decisions on issues which are not purely financial. The issue seems more basic. If the fisheries

sector accounts for something in excess of 40% of GDP that seems to make the Falklands very much a fishing country. A domestic fishing fleet would seem to be part of that.

4.12 A subsequent Exco minute simply referred to changing the risk profile for FI trawlers wishing to operate in the *Illex* fishery. The proposals set out in this paper would achieve that. The industry has periodically contended that unlike other countries there are few benefits in local registration. In most cases they pay the same charges as foreign vessels. There have been the recent headlines on Mercopress about wider action in South America against FI registered vessels. This proposal on *Illex* potentially provides minor benefit to FI registered vessels. However, that aspect should not be overstated and the level of take up if the option is approved could be quite minor in most years

## **5.0 Financial Implications**

There may be some minor additional revenue arising from these proposals.

## **6.0 Legal Implications**

**Redacted**

## **7.0 Human Resources Implications**

None.