

EXECUTIVE COUNCIL

RESTRICTED

Title of Report: Southern Blue Whiting – Future Options

Paper No: 260/09

Date: 17 December 2009

Report of: Director of Natural Resources

1.0 Purpose

This paper sets out the current situation with regard to the stock status of Southern Blue Whiting (SBW). There has been a declining trend in SBW biomass. Conservation action is complicated by virtue of it being a shared stock. There are some significant financial issues which arise as well.

2.0 Recommendations

That Executive Council be advised to recommend that:

- a) Catches on the Restricted Finfish Pelagic fishery are temporarily reduced by 12000 tonnes to a TAC of 6000 tonnes.
- b) Licence fees be adjusted pro rata so will be one third of fees applicable to 18000 tonnes.
- c) There be some negotiation on the agreement between FIG and Fortuna Ltd., relating to the lease of the Crown's Catch Entitlement, to reflect the temporary changes.
- d) The closures of some fishing areas during the spawning period for SBW and Red Cod be implemented subject to the outcome of consultation with the industry (currently underway).
- e) A publicity campaign be implemented to highlight the Falkland Islands conservation action.
- f) The question of any refund being made on the Restricted Finfish – Pelagic fishery for 2009, be considered in early 2010.

3.0 Summary of Financial Implications

| | 2009/10 £ | 2010/11 £ | Full Year £ |
|-------------------------|--------------|--------------|----------------|
| <u>Operating Budget</u> | | | |
| 321 0070 * | (181257) | (362513) | (362513) |

* Reduction in fishing access fee revenue, assuming reduction starts in 2010 calendar year.

4.0 Background

4.1 Historically, SBW has been the main component of finfish catches from FI zones. It has been the most important species in terms of volume after the two squid species in the 80s and 90s. However, catches of SBW have been declining and in 2008, it was ranked fifth in terms of volume after Rockcod and Hoki, and the two squid species. In absolute terms catches have declined from 50000 – 70000 tonnes in the 80s and early 90s to 13220 tonnes in 2008 (2009 is likely to be less than that).

Blue whiting catches in FI zones

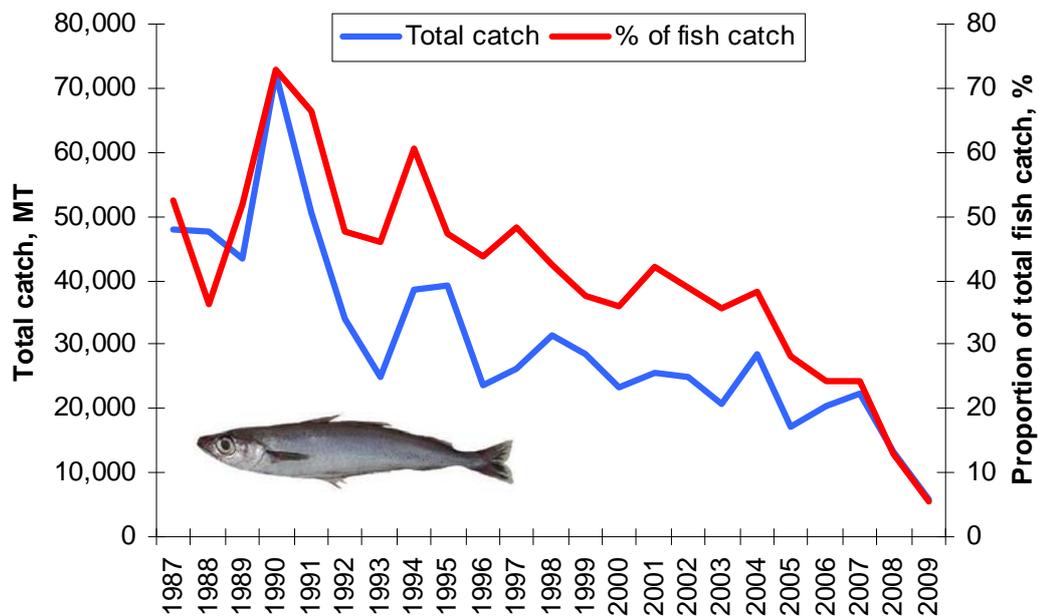


Fig 1. Trend in SBW catches and SBW catch as a percentage of finfish catches.

- 4.2** The decline has not suddenly become apparent it has been evident for some time. In 1994 the South Atlantic Fisheries Commission (SAFC) agreed that the first joint survey of SBW should be held in September of that year. This development was either in response to a concern about the status of SBW stocks, or at least a need to get a better assessment of stock status. In 1999 the scientific sub-committee (SSC) of the SAFC recommended a reduction of SBW catches indicating that prevailing catch levels of c. 100000 tonnes (Argentina and FI zones) was unsustainable. In 2002 the SSC recommended a catch limit for SBW of 55000 – 59000 tonnes.
- 4.3** At some point that recommendation was further reduced to 50000 tonnes. The catch limit was for the entire stock. The distribution of SBW includes Argentina and the Falkland Islands' fishing zones. Whilst there was good agreement on overall catch limits there was never much progress on agreeing an allocation of the regional Total Allowable Catch (TAC) between the Falklands and Argentine fisheries. The obvious option might have been to use fishing history to allocate 'shares' in the stock. The benefits to each party were very dependent on length of time series and starting point. Around 2002 the proportion of total catch calculation was moving heavily in favour of Argentina. If there was a serious discussion it never made much progress. The Falkland Islands Government implemented the unilateral measure of indicating that in order to achieve the agreed conservation objective, the Falkland Islands would limit annual catches of SBW to 25000 tonnes or 50% of the agreed catch limit. The Falklands has maintained this objective since then. There has been the odd year where the limit was exceeded but the average of any two successive years has been less than the 25K limit.
- 4.4** Argentina on the other hand continued to set TACs which took little notice of the catch limit recommended by the SAFC. Even if they moved in that direction over time they seemingly made no allowance for any catch of SBW in FI conservation zones. Recently Argentina is reported as setting the 2009 TAC for SBW at 60000 tonnes.

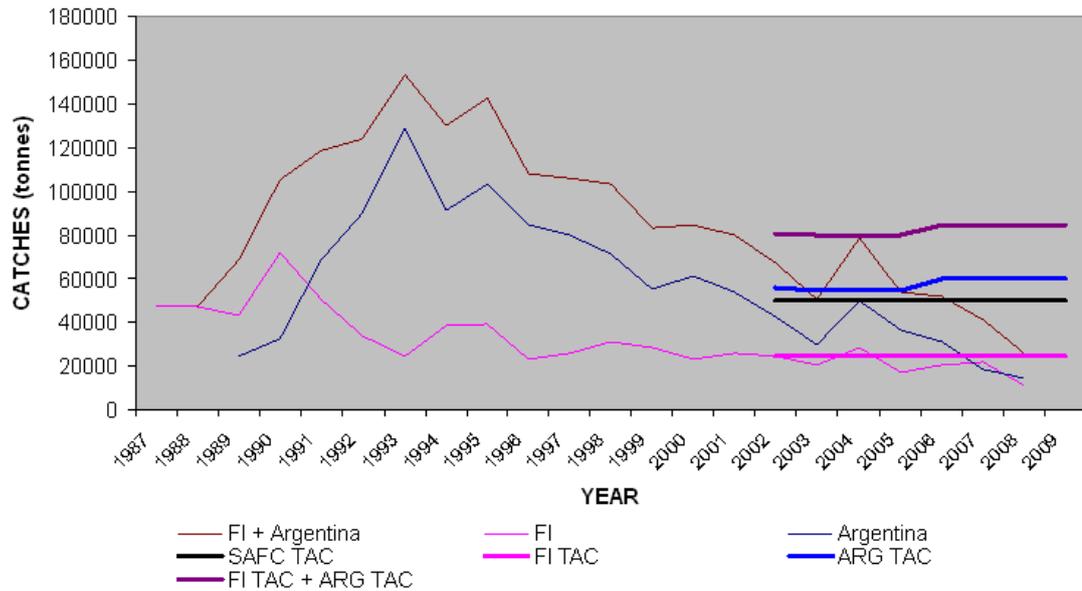


Fig 2. Catches of SBW and Total Allowable Catches (TAC).

4.5 The trend in SBW spawning stock biomass is set out in Fig 3. That graph alone shows that additional action is necessary if the status of the SBW stock is to be improved. As is often the case there is some conflicting information. The question arises as to whether the SBW stock is elsewhere rather than on the normal fishing grounds. Length – frequency data show that the length of fish in catches remains largely unchanged. If there is a dramatic reduction in biomass you might expect to see fewer large fish. However, it is also the case that catches seem to reflect the biomass trend. It is not a case, as sometimes happens, of science saying that stocks are reducing and fishermen contending that there are more fish than ever. The fact that the SBW biomass shows this trend with time is not surprising. The initial action by the SSC in 1999 was probably due to adverse signs. A catch limit was recommended however, catches have exceeded that in most years (Fig 2), which is likely to have accelerated the decline in stock biomass. The excess catches have largely been due to Argentina.

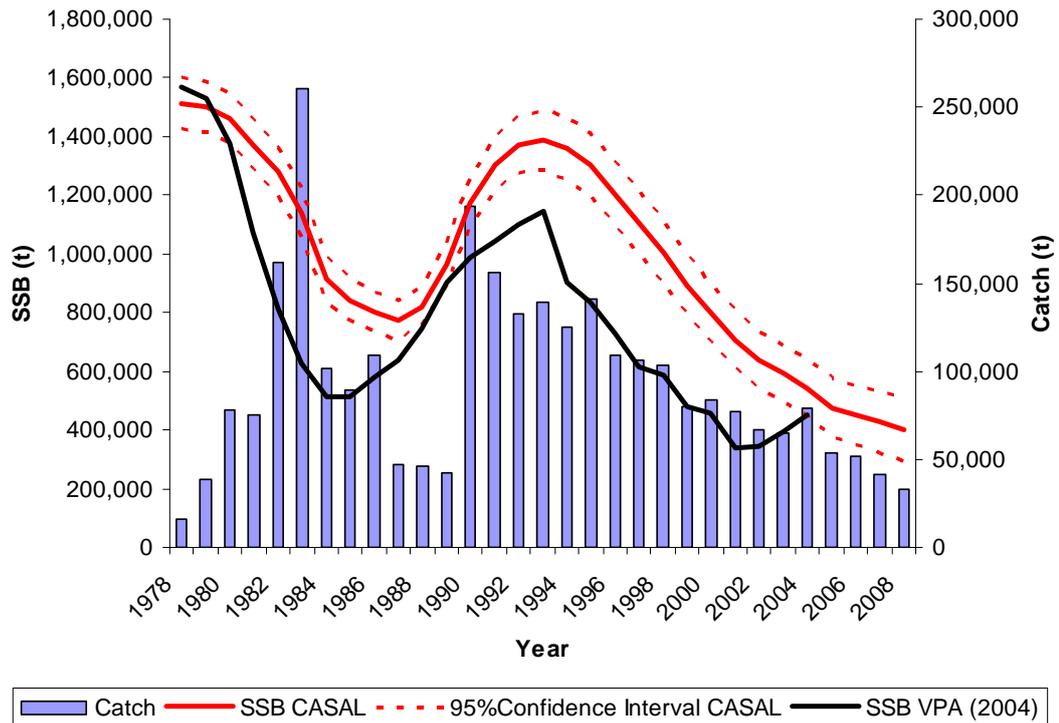


Fig 3. Catches, estimated Spawning Stock Biomass by RRAG (VPA) and Fisheries Department (CASAL) using combined FI and Argentine catches.

4.6 The scientific advice within Fisheries Department is that total catches need to reduce significantly, perhaps down to c. 10000 tonnes per annum. This raises a couple of dilemmas:

a) Conservation:

In the normal course of events reducing catches and fishing effort is usually a painful process but it is relatively straightforward. It is also a legal obligation in accordance with the Law of the Sea and the Fisheries Ordinance. The complicating factor here is that conservation action taken by FIG can be completely negated by the Argentine action. The Falkland Islands could reduce catches by 10000 – 15000 tonnes, however Argentina has set a TAC which alone exceeds the recommended catch limit of 2002. We don't believe the stock status has improved since then. Whilst Argentina has set a TAC at 60000 tonnes there is little likelihood that they will catch that amount. Their catches also seem to reflect the declining biomass. However, without co-operation the risk is that conservation action undertaken by FIG fails to achieve its objectives, or even worse provides some temporary benefit for Argentina; they see some temporary improvement in catches whilst the Falklands imposes restraint.

The Law of the Sea also has something on shared stocks but that is unlikely to have much impact¹. No action will most likely result in the SBW stock dwindling to the point where it becomes an uneconomic proposition.

b) Effort Reduction:

SBW is caught across a range of licence types. The broad distribution for the 25000 tonne catch limit is:

| | |
|-----------------------------------|--------------|
| Restricted Finfish Pelagic | 18000 tonnes |
| Restricted Finfish | 4750 tonnes |
| Finfish | 1750 tonnes |
| <i>Illlex</i> /Restricted Finfish | 500 tonnes |

The obvious option to achieve any reduction is to reduce SBW catches proportionately across the licence types. The complication with this is that all fisheries except the Restricted Finfish Pelagic fishery are multi-species fisheries. They have mixed catches of Rockcod, SBW, Hoki, Red Cod, etc. Reducing effort to protect SBW could reduce fishing time on some other species unnecessarily. On the other hand catches of SBW in the Restricted Finfish Pelagic fishery are usually SBW only or sometimes with a bycatch of Hoki. It is also clear that to get any worthwhile reduction in SBW catches that the bulk of the reduction would have to come from the pelagic fishery.

4.7 Other factors:

A number of other issues arise in relation to the decline in SBW and the measures which may be implemented.

- a) Catch levels: Whilst the biomass trend is downward and catches need to be reduced this is already happening to some extent in that the abundance or availability of SBW makes it almost impossible to take the allowable catch. The catch was down to c. 13000mt in 2008 and is unlikely to exceed that in 2009.
- b) Restricted Finfish Pelagic: The Individual Transferable Quota (ITQ) in this fishery is held by Fortuna Ltd (30%) and the Crown (70%). The catch entitlement generated by FIG's ITQ is leased to Fortuna Ltd., so Fortuna effectively has access to 100% of the Restricted Finfish Pelagic fishery.

¹ 63(1) Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organisations, to agree upon the measures necessary to co-ordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

This reflects the situation which existed prior to the ITQ system being introduced. At present the fees for the pelagic fishery are £543770 per annum. One option for reducing SBW catches would be to reduce the pelagic fishery quota by perhaps 12000 tonnes to 6000 tonnes. This would imply a reduction of fees at 2009 fee levels of £362513 to £181257. This could be a temporary measure until SBW stocks improve. It is unlikely that this fishery will continue to generate existing fee revenue on the catches currently being experienced. The question might arise whether a similar adjustment should apply to other licence types, and whether they should not also see some reduction in fees. In most cases they will still get some catch of SBW and additionally there has been a significant increase in catches of Rockcod on other licence types. The amount of SBW likely to be caught can be taken into account in calculating fees.

- c) **Closed Areas:** Fisheries Department has recently proposed closing some areas to fishing to protect SBW spawning grounds and Red Cod spawning grounds. It is anticipated that these additional measures will benefit the respective stocks. The closures will also reduce the catches of both species on some licence types.
- d) **Effort Allocation:** In terms of calculating allowable effort across the various licence types, SBW has generally been used as the key species. It used to be the main finfish species and it was also the limiting species in conservation terms. However, it is now at some risk of becoming, and already is, a bycatch species on some licence types. As a consequence the system for allocating effort in finfish fisheries is being reviewed, and it seems inevitable that some other formula will have to be devised.
- e) **Argentine Stance:** The state of the SBW resource has been raised with Argentina via FCO. The intent was to gauge whether Argentine fishery managers shared our concerns and whether there might be potential for co-ordinated action. The Argentine response could be characterised as “not interested”.

4.8 Conclusions:

- a) The biomass trend for SBW is alarming and conservation measures should be implemented. However, in the absence of any co-ordinated action with Argentina, unilateral action by FI alone is unlikely to achieve much.

- b) The trend in catches reflecting the declining biomass means that allowable catches are unlikely to be achieved and that catch limits and fees need to be modified to reflect this.
- c) It is recommended that the TAC in the Restricted Finfish – Pelagic fishery be reduced from 18000 tonnes to 6000 tonnes. It is also recommended that fees be reduced pro rata. At 2009 fee levels, the fee reduces from £543770 to £181257.

5.0 Financial Implications

- 5.1 The implications for FIG are as set out in 3.0. There is a knock on effect for the private sector in terms of reduced catches and turnover.
- 5.2 Fortuna have already raised the issue of a refund on fees in respect of the Restricted Finfish – Pelagic fishery for 2009. They are likely to pursue this issue regardless of the outcome of the decision on this paper. As at 24 November, total catches by Fortuna in this fishery have been c. 3300 tonnes out of the TAC of 18000 tonnes, so c. 18%. On current projections their catches by the end of the year are unlikely to exceed 6000 tonnes. The total fees for 2009 for this fishery are £543770. If the same approach as advocated for 2010 was applied retrospectively to 2009, this would imply a refund of £362513 in the current financial year. A refund of 50% equates to £271885. There is a difference in that for 2010 this paper is recommending a change in TAC, whereas in 2009 the argument is that the SBW are simply not there to be caught, which largely reflects the conclusions of this paper. Fortuna will most likely argue that the scenarios are similar in effect. This issue may need to be considered further once the season ends.

6.0 Legal Implications

The reduction in SBW catches and the introduction of closed areas all appear necessary and straightforward on conservation grounds. The potential legal issues include:

- a) Conservation action (or inaction) in a negative geopolitical environment:

In some circumstances a compelling case for conservation action might exist, but there would be little or no merit in implementing such action, as it would be completely undermined by the activities of a non-cooperative neighbour. The Law of the Sea and FI fisheries law would clearly lead to conservation action. Wider political considerations might argue against such action. Fortunately, this dilemma need not be investigated further here. Apart from the conservation argument there is a compelling case in reducing the TAC to match likely catches and adjusting the access fees accordingly.

This coincides with the conservation argument. Leaving the TAC at 25000 tonnes would be meaningless as it will not be caught on current trends.

b) Pelagic fishery and Fortuna issues:

Fortuna hold 30% of the ITQ in the Restricted Finfish – Pelagic fishery. The balance of the ITQ (70%) is held by the Crown, and Fortuna lease the catch entitlement generated by the Crown's ITQ. In general the lease arrangement will continue to function if the TAC for SBW is revised. If, for example, the TAC in the pelagic fishery is reduced from 18000 tonnes to 6000 tonnes the lease will continue to function at that level. There are two aspects which Fortuna would like to see some negotiation on:

- i) The lease indicates that unless otherwise agreed by the Director of Fisheries that Fortuna must catch at least 75% of the catch entitlement. Fortuna contend that with the resource being difficult to catch, as evidenced across all licence types, that it is impossible to guarantee this outcome. There is some flexibility to vary this provision.
- ii) In terms of reducing SBW catches the most equitable approach would be to reduce catches across all licence types. However, as indicated the pelagic fishery is likely to bear the brunt of the reductions. Additionally, it is easier to apply reductions to the pelagic fishery as it is largely a single species fishery whereas other fisheries are multi-species. Fortuna might argue that any reduction should be 'shared' with other licence types. However, they are disposed to be flexible on this point, providing the arrangements are seen as temporary, and whilst such conservation action is necessary. In the event that SBW stocks recover then in the first instance they would wish to see the original TAC of SBW in the pelagic fishery restored, rather than benefits being re-allocated elsewhere. This seems reasonable, and is the course of action recommended.

7.0 Human Resources Implications

None.

8.0 The paper was considered by CMT on 1 December 2009. CMT noted the paper and agreed it was an issue for the December ExCo. A version of the paper was also considered by the Fisheries Committee on 2 December and was generally supported.