# Asset recovery and environmental crime: A case study

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# Overview of presentation

Case study

Overview of investigation

Asset recovery powers

Proceedings and outcome

### Case study

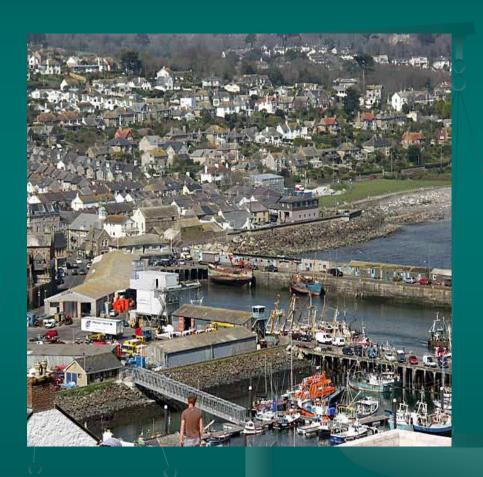
- The case study relates to the investigation and subsequent confiscation proceedings taken against a sea fishing company in the UK in a joint investigation carried out by the Marine and Fisheries Agency (MFA) and the Assets Recovery Agency (ARA)
- The investigation centres around the overfishing of agreed quotas on certain types of fish and the falsification of records in various landing and sale accounts both of which constitute a criminal offence under EU legislation
- It was the first of a number of similar cases and generated considerable comment and media attention challenging the use of the UK confiscation powers in these circumstances. It also resulted in a lengthy documentary highlighting the issues and the life of fishermen in the UK titled "The Trawler men" www.bbc.co.uk/www.youtube.com

# Overview of investigation

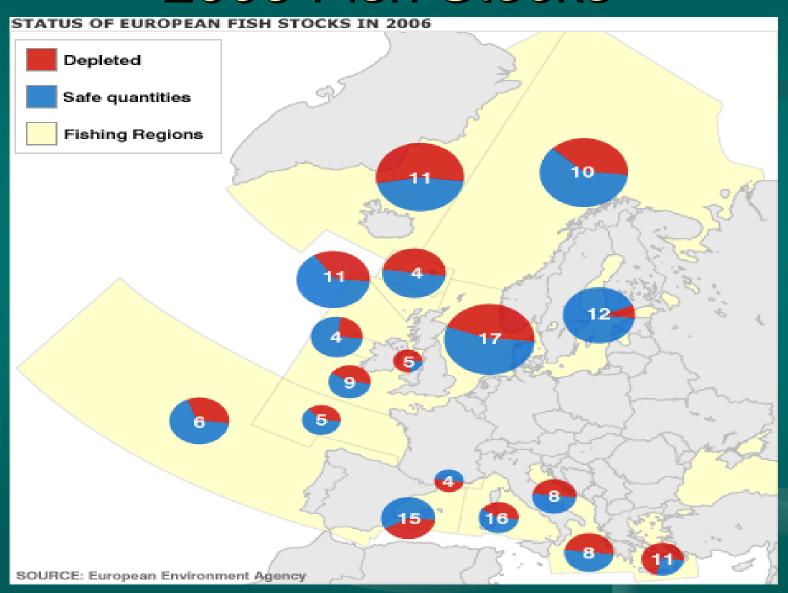
- The MFA is a Government Regulatory Agency with responsibility for the enforcement of the Common fisheries policy and associated regulations for 60,000 square miles of English and Welsh waters
- Three objectives:
- Key partner in management of marine fisheries
- Enforce regulations
- Contribute on sustainable use of marine environment
- Provide specialist information to inform policy development

# Overview of Investigation

- In 2002 the MFA launched an investigation looking closely into the declared catch from fishing vessels operating out of Newlyn harbour in Cornwall, South West England
- They had received information from a whistleblower that the recorded catch of some 45 vessels was being deliberately falsified in relation to the weight and type of fish landed and thereby breaching specific quotas

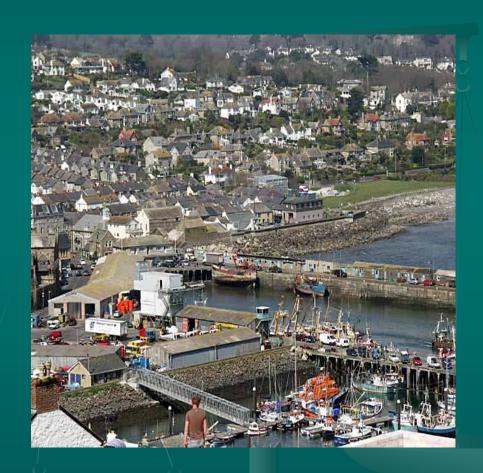


### 2006 Fish Stocks



# Overview of Investigation

Newlyn is home to one of the largest fishing fleets in the UK with over 40 acres of harbour. The industry is one of the most important in the county, contributing millions of pounds to the Cornish economy each year



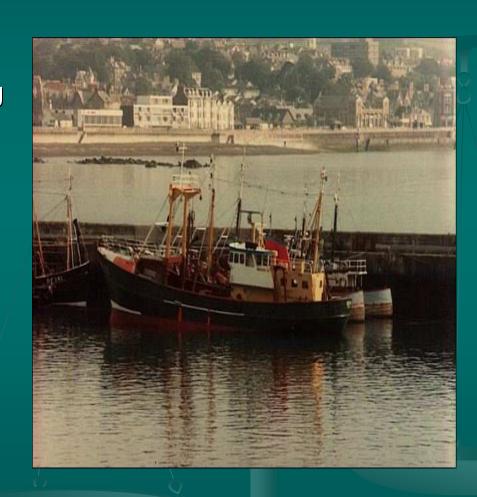
### W Stevenson and Sons

- Family firm working out of Newlyn since 1880 and were operating a total of 35 vessels
- Key employer within the area
- A third to half of the fish landed at Newlyn come from Stevenson boats
- Act as agents, fuel suppliers and for a host of other services to the port
- Supply every European market
- Elizabeth Stevenson
   (pictured) who runs the firm
   was chair of the National
   Federation of Fisheries
   organisations



# Initial investigation

- Initially officers from MFA carried out observations to check that quota species being landed and recorded accurately.
- Compared the landing declarations returned on the days they were not present which showed that the amount of non quota species recorded rose dramatically
- Decision to dip sample the records of 20 vessels, eight of which were owned by company Stevenson and Sons the others worked in partnership with this company

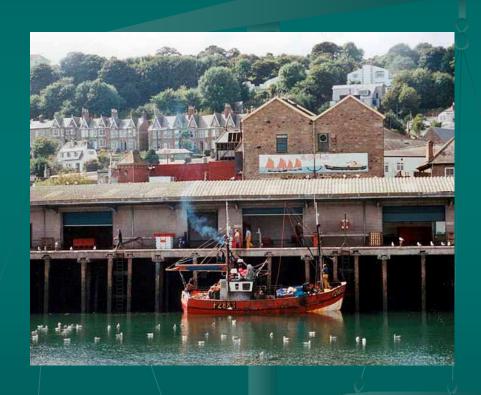


# Overview of investigation

- Between April and September 2002 officers from MFA examined landing declarations made by the 20 vessels comparing trawler logs and landing declarations
- No real pattern in the declared catch which may have reflected the changing environmental conditions
- Unusually however, there was no consistency with a cross check of the catches across the 20 sample vessels even though they were all operating in a similar area

# Overview of Investigation

- Once landed the fish were unloaded at the Newlyn Fish Market
- MFA official sought to examine the auction records to validate the sale
- Significant amount of documentation, utilised the services of a forensic accountant to reconcile the data trail

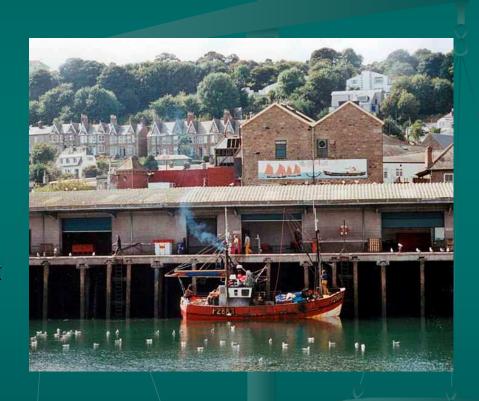


### **Audit trail to reconcile**



# Overview of Investigation

- Newlyn Fish Market
- Auctioneer connected to W
   Stevenson and Sons
- Some inconsistencies with the records but not significant
- Traced the five key buyers and secured the purchase invoice and shipping records
- Further reconciliation and audit by the forensic accountant significant discrepancies



# Audit trail: Following the money 15000 documents examined in specified period







### Overview of investigation: Trial in 2007

- 114 specimen charges of landing "black fish" between April-September 2002 with a total value of £141,000
- Owners and skippers of six fishing vessels fined total of £190,000 plus costs
- Julian Blick auctioneer 4 counts of aiding and abetting fined £18,000
- Stevenson firm convicted of 8 charges and pleaded guilty to further 37 charges submitting false sales records
- Conditional discharge
- During the course of the investigation it was identified that the Stevenson partnership appeared to have made substantial profits from the unlawful activity and that the fines imposed were not of any real significance when compared to that level of benefit
- As a result the MFA contacted the Assets Recovery Agency (ARA) seeking their assistance as to how this benefit may be recovered

### Overview of asset recovery investigation

- The Assets Recovery Agency was formed in 2002 but merged with the Serious and Organised Crime Agency (SOCA) in 2008
- Not a prosecutorial Agency but had remit to receive cases on referral and seek to recover assets obtained as a result of crime through powers of:

Confiscation - Post conviction

Civil recovery - Non conviction based recovery

Taxation - Use of source-less tax assessment

### Overview of asset recovery investigation

- Confiscation legislation under Proceeds of Crime Act 2002 however the activity pre-dated this legislation
- Very powerful
- Following conviction for offence where there has been benefit
- Make certain assumptions:
  - All property held derives from crime
  - All property that passed through possession in last 6 years derived from crime
- Reverse burden of proof: Defendant must prove that the assumptions are incorrect
- Criminal process heard to the civil standard
- Any sentence is consecutive and any debt still remains

### Overview of asset recovery investigation

- Examined the records seized by the MFA and analysed by the forensic accountant
- Quantified the profit between the declared catch and the actual catch
- Cross matched with the data from the suppliers
- Prosecution claimed overall, 24.2
  % of the catches on the sample
  vessels were black fish, which
  were considered to be broadly
  representative of the situation
  regarding the whole fleet
- Defense team argued that the actual figure was 7.2 per cent
- Applied over the prescribed period



### Considerable Media coverage

- 1000 people signed a petition against the use of proceeds of crime legislation which it was argued was set up to seize the assets of big-time drug dealers and gangsters not to punish fishermen.
- The skippers argued that if EU rules had been observed, fishermen would have had to throw millions of fish back into the sea, dead.
- Elizabeth Stevenson again argued that the boat owners and auctioneers caught in the investigation were not criminals living off the proceeds of crime, although the law says they were.

### Proceedings and outcome: 2009

- Confiscation claimed for £4 million
- Ordered confiscation of £710,000
- Nominal fines of £1 for each of the 45 charges
- Judge said that, throughout the trial, he had "not lost of sight" of the fact that whatever happened in this case could have a "considerable" knockon effect on others involved in the fishing industry in and around Newlyn"



"It's not going to be easy to find this sum of money. It's huge, but the case has ended well."

She added: "We haven't got away with it. It's absolute hell to take part in a case like this."

### Proceedings and outcome

- Kilkeel Fishermen Pay the Price for Illegal 'Black' Fishing
- The Assets Recovery Agency (ARA), working in partnership with the Marine and Fisheries Agency (MFA), an executive agency of the Department of the Environment, Food and Rural Affairs (DEFRA), has successfully obtained restraint orders effectively freezing property in Kilkeel, Northern Ireland, held by three men convicted of landing fish stocks in excess of their permitted quota.
- The prosecutions were brought by the Marine and Fisheries Agency after the detection of inaccurate fish landing declarations involving 12 fishing vessels, some of which were owned and controlled by the defendants during a period from January to October 2003.

### Proceedings and outcome

#### Confiscation orders:

£647,334 in respect of Charles Leslie McBride: £489,689 in respect of Charles Hubert McBride; £1,003,686 in respect of Leslie Clifford Girvan; £380,242 in respect of McBride Fishing Company Limited; and £12,594,253in respect of Kilkeel Fish Selling Company Limited.

The Judge ordered that Charles Leslie McBride and Charles Hubert McBride had 6 months to pay or serve a period of imprisonment of two years and three months and two years and 6 months respectively in default, at the conclusion of which sentences they will still owe the full confiscation amounts.

### Conclusions

"But the truth is, it was all about making money, and to hell with the environmental considerations. These are the real Pirates of Penzance but there is nothing romantic about it....."

Confiscation of assets can be used as an effective tool on any investigation that is motivated by money and profit.

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