



## BRIEFING PAPER

Number 8396, 30 October 2019

# Fisheries and Brexit

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### Contents:

1. Background
2. UK Negotiating priorities
3. The Withdrawal Agreement
4. Fisheries in a future trade deal
5. Fisheries and No Deal



# Contents

<b>Summary</b>	<b>3</b>
<b>1. Background</b>	<b>4</b>
1.1 Fisheries Bill	4
The Bill and No Deal	5
<b>2. UK Negotiating priorities</b>	<b>5</b>
<b>3. The Withdrawal Agreement</b>	<b>8</b>
3.1 The November 2018 Withdrawal Agreement	8
The backstop	11
3.2 The October 2019 Withdrawal Agreement	12
<b>4. Fisheries in a future trade deal</b>	<b>12</b>
4.1 Separating trade and access	14
4.2 The November 2018 Political Declaration	16
4.3 The October 2019 Political Declaration	18
<b>5. Fisheries and No Deal</b>	<b>18</b>
5.1 Access to fishing grounds	18
5.2 Tariffs and trade	19
5.3 EEZ enforcement	20
5.4 Funding for fishing communities	21
5.5 Quota negotiation with neighbouring countries	21
5.6 UK No Deal advice for fisheries industry	22
5.7 EU preparedness notice to stakeholders	23
EU contingency proposals to mitigate impact of “no-deal” on fisheries	24
5.8 Longer term impacts	24

## Summary

Following Brexit, the UK will no longer be part of the [EU Common Fisheries Policy](#) (CFP). It will become an [independent coastal state](#) and be fully responsible for managing fisheries in the UK's Exclusive Economic Zone (EEZ), extending 200 nautical miles (nm) from shore. The UK will continue to be bound by the requirements of the UN Convention on the Law of the Sea ([UNCLOS](#)) and how they relate to the management of fisheries in any Brexit outcome. This includes an obligation to co-operate with other coastal states on the management of shared stocks or stocks of associated species. The [Fisheries White Paper](#) *Sustainable fisheries for future generations*, published in July 2018, set out the Government's intention to continue to co-operate closely with the EU and other coastal states on the sustainable management of fish stocks that cross borders.

[The Fisheries Bill \(2017-2019\)](#), which did not make any progress beyond Committee stage in the House of Commons, included powers for the Government to set and distribute fishing opportunities, and exclude foreign vessels from UK waters. In addition, the Government brought over into UK legislation a number of [EU regulations](#) on fisheries under the [EU Withdrawal Act 2018](#) aimed at ensuring a continuation of existing rules on Brexit day. The Government has [stated](#) that in the absence of a Fisheries Act it would be able to set fishing opportunities for the UK using prerogative powers.

### Fisheries negotiations

The negotiated [EU Withdrawal Agreement](#) included the provision that the UK would be bound by the Commons Fisheries Policy until the end of any transition period. The agreement on the backstop provisions for Northern Ireland included that free movement of fishery and aquaculture products would not be included in any backstop customs arrangements for the whole of the UK "unless an agreement on access to waters and fishing opportunities is applicable between the Union and the United Kingdom". The [Political Declaration](#) sets out that any fisheries agreement should be in place for the first year after the transition period and included a target date for ratifying any fisheries agreement of 1 July 2020. There were no significant changes in relation to fisheries in the [new Withdrawal Agreement and the Political Declaration](#) agreed in October 2019

### Fisheries and No Deal

A no deal Brexit would have an immediate impact on access to fishing grounds for both EU and UK flagged vessels. There would also be an impact on trade in fish products which would be subject to a range of tariffs when exporting to the EU and could be affected by any customs delays. In addition, the UK would be responsible for patrolling and enforcing the exclusion of foreign vessels within the UK EEZ and negotiating yearly fishing agreements on shared stocks with neighbouring countries. UK fishing vessels' quota allocations for 2019 would not immediately change unless the fishing authorities decide to make amendments, as it is already a UK competence.

A [continuity agreement with Norway](#) to the end of 2019 was signed by the UK Government in September 2019

### Further reading

For further information please see the Commons Briefing Paper on [Management on Fisheries in the UK](#). For a briefing on the Fisheries Bill please see the Commons Briefing Paper on the [Fisheries Bill 2017-2019](#). For further detail of the Brexit negotiations as whole please see [Commons Briefing Papers](#) on Brexit.

# 1. Background

Following Brexit, the UK will no longer be part of the [EU Common Fisheries Policy](#) (CFP). It will become an [independent coastal state](#) and be fully responsible for managing fisheries in the UK's Exclusive Economic Zone (EEZ) of 200 miles. This will include setting total allowable catches (TACs), distributing quotas and determining who has access to fisheries.<sup>1</sup> However, access for EU vessels to UK waters and vice versa is likely to be part of any agreement reached with the EU, as part of a future relationship.

The UK will continue to be bound by the requirements of the UN Convention on the Law of the Sea ([UNCLOS](#)) and how they relate to the management of fisheries in any Brexit outcome. UNCLOS requires coastal States to give other States access to the surplus of the allowable catch in its EEZ and emphasises the need to minimise economic dislocation in States whose nationals have habitually fished in the zone. It also provides an obligation to co-operate with other coastal states on the management of shared stocks or stocks of associated species.<sup>2</sup>

The [Fisheries White Paper](#) *Sustainable fisheries for future generations*, published in July 2018, set out the Government's intention to continue to co-operate closely with the EU and other coastal states on the sustainable management of fish stocks that cross borders, and states that "any decisions about giving access to our waters for vessels from the EU, or any other coastal states including Norway, will then be a matter for negotiation".<sup>3</sup>

Setting the system for quota distribution to individual fishing vessels is already the responsibility of Member States. However, the White Paper makes clear that the Government is considering some changes to how fishing effort is set post-Brexit, particularly for smaller and inshore fishing vessels.<sup>4</sup>

## 1.1 Fisheries Bill

[The Fisheries Bill \(2017-2019\)](#), which did not make any progress beyond Committee stage in the House of Commons, included powers for the Government to set and distribute fishing opportunities, and provided powers for the Government to set and distribute fishing opportunities, and exclude foreign vessels from UK waters.<sup>5</sup> In addition, the Government brought over into UK legislation a number of [EU regulations](#) on fisheries under the [EU Withdrawal Act 2018](#).

In the October 2019 [Queen's Speech](#), the Government set out its intention to bring forward a new Fisheries Bill, but this was not

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<sup>1</sup> Article 61(1) of the [UN Convention on the Law of the Sea \(UNCLOS\)](#) states that: "The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone."

<sup>2</sup> [UN Convention on the Law of the Sea \(UNCLOS\)](#)

<sup>3</sup> Defra, [Fisheries White Paper](#) *Sustainable fisheries for future generations*, published July 2018

<sup>4</sup> Defra, [Fisheries White Paper](#), 4 July 2018

<sup>5</sup> EFRA Select Committee [Evidence Session](#), 17 July 2018, Fisheries, Q385



expected to be published before Parliament was dissolved for the December 2019 election.

## The Bill and No Deal

The Fisheries Bill would have provided powers the Secretary of State to set and distribute fishing opportunities in UK waters by revoking and replacing *Article 16* and amending *Article 17* of [EU Regulation 1380/2013 on the Common Fisheries Policy](#). The Fisheries Bill would also revoke and replace *Article 2* which sets fisheries objective; and *Article 5* which provides EU vessel access to UK waters. In addition, the Bill provides power to exclude foreign fishing vessels, if unlicensed by the Government, from UK waters.

The [Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations](#) explicitly omit a number of Articles in [Regulation 1380/2013](#) covering conservation measures and objectives (Articles 6,7,8, 11,12,13) which are due to be replaced by provisions in the Fisheries Bill.

However, Annex B of the [Explanatory Memorandum](#) for [the Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) \(No. 2\) Regulations 2019](#), published 28 February 2019, referred to existing common law powers:

The UK has domestic powers to set its own fishing opportunities: common law powers, an express power which is currently contained in clause 18 of the draft Fisheries Bill, and powers to specify fishing opportunities through licence conditions.<sup>6</sup>

This was an issue raised with Defra by the [Secondary Legislation Scrutiny Committee](#). In its [response](#) Defra referred to existing prerogative powers to set fishing opportunities which could be used if the Fisheries Bill was not be in force on exit day:

The Department explains that the instrument revokes provisions which put into law the EU's current fishing opportunities, as it will no longer be appropriate for these to apply to the UK after exit. Defra says that the Secretary of State will instead set fishing opportunities for the UK, under clause 18 of the Fisheries Bill. Defra told us that after exit the "Secretary of State will immediately replace the current EU figures with UK fishing opportunities" and that "in the event that the [Fisheries] Bill is not in force for Exit day, the Secretary of State will set UK total fishing opportunities for the UK for 2019 using prerogative powers."<sup>7</sup>

## 2. UK Negotiating priorities

The fisheries sector is very diverse in the UK, with both a significant inshore and offshore fleet. There are also differences in the size and type fishing vessels across the devolved administrations.<sup>8</sup> Both EU quota species and non-quota species are important for different parts of the sector.<sup>9</sup> Management of fishing effort for non-quota species do not fall under the CFP. Non quota species include most shellfish, which is often

<sup>6</sup> [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) \(No. 2\) Regulations 2019](#)

<sup>7</sup> House of Lords Secondary Legislation Scrutiny Committee (Sub-Committee A), p2 [21st Report of Session 2017–19, Proposed Negative Statutory Instruments under the European Union \(Withdrawal\) Act 2018](#), 20 March 2019

<sup>8</sup> MMO, [UK Sea Fisheries Statistics 2016](#), 28 September 2017

<sup>9</sup> MMO, [UK Sea Fisheries Statistics 2016](#), 28 September 2017

high value and exported from the UK rather than consumed nationally. The UK also has significant processing and aquaculture industries. This results in a diversity of views on priorities for the sector, as was noted in the White Paper:

A full range of views have been expressed across a very wide range of issues and there is no consensus. Different sectors within the fishing industry (catching, processing, and trading) have different priorities. Within each of those sectors, there is a range of views.<sup>10</sup>

The House of Lords Committee on the European Union 2016 report, [Brexit: Fisheries](#), set out some of the potential concerns and priorities for fisheries going into the Brexit negotiation. The report recognised that whilst the fishing industry represents “a very small part of the UK’s GDP” it is of great importance to many coastal communities and that opportunities exist for the UK in leaving the CFP. It also noted that most of the fish caught in the UK are exported to the EU and that the UK currently imports most of the fish it consumes.

The report highlighted concerns about the potential impact on the fishing industry of a lack of agreement during the Brexit negotiations on access, quotas and trade. The conclusions on access and quota included the following:

20. Unilateral restriction on access to fishing in the UK EEZ would almost certainly lead to reciprocal restrictions being placed on UK vessels fishing in the EU EEZ. This would also have a profound effect both on the fishing industry in the EU and on the UK fleet that relies on fishing outside the UK EEZ. Some form of mutual access arrangements must therefore be negotiated.

21. The historic reluctance of Member States to renegotiate the relative stability key suggests that negotiating new quota allocations after Brexit will be difficult. Such difficulty will be accentuated if these negotiations overlap with the wider negotiations on EU withdrawal. The Government could use access to fishing within the UK EEZ as a lever for achieving a better allocation of quotas but must also bear in mind that co-operation will be crucial for the long-term sustainability of stocks.

22. As an independent coastal state the UK will in principle be able to ‘walk away’ from negotiations with other coastal states if the compromises reached on TACs or quota shares are not aligned to UK interests. Walking away would, by leading to unilateral management of shared stocks, risk undermining the sustainability of fish stocks. It would also invite retaliation in other areas, including trade. Consequently, walking away should be a last resort.<sup>11</sup>

And on fisheries and trade:

23. Trade in fish and seafood is essential to the wider seafood industry, which relies heavily on importing raw goods at reduced or zero tariffs for domestic consumption, and on exporting domestic catches and production. Any disruptions to the current

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<sup>10</sup> Defra, [Fisheries White Paper](#) *Sustainable fisheries for future generations*, published July 2018

<sup>11</sup> House of Lords Committee on the European Union, [Brexit: Fisheries](#), December 2016

trading patterns could have profound effects on both the catching and processing sectors.

24. Trade with the EU in fish products will be a key factor to the future success of the UK fishing industry and fish processors. We therefore urge that the fish sector should be included in the Government's consideration of priorities for a future trading relationship with the EU.<sup>12</sup>

The then Fisheries Minister, George Eustice, gave evidence to the Lords Energy and Environment Sub Committee on 21 February 2018. In his evidence, he provided detail of the Government's expectations for fisheries and access to the UK's EEZ. With regards to co-operating with neighbours on shared stocks he stated that the UK "absolutely intend to do that".<sup>13</sup> He also referred to introducing changes to quota allocations for neighbouring countries and the "need to do that over time".<sup>14</sup> The Minister also raised the issue of the [North East Atlantic Fisheries Commission](#), which requires notice to join and which the UK will not technically be allowed to do until it leaves the EU.<sup>15</sup>

In his statement on the publication of the [Fisheries White Paper](#) on 4 July 2018 the then Secretary of State for Environment Food and Rural Affairs, Michael Gove set out the Government's proposals for the UK relationship with the EU for fisheries after Brexit:

Today's White Paper outlines how, as an independent coastal state, under international law, we will be in control of the seas that make up our exclusive economic zone—the waters up to 200 nautical miles out from our coastline or halfway between our nation and others. We will determine, in annual negotiations with our neighbours, who has access to our waters. We will also ensure that any additional fishing opportunities then available to our vessels are allocated fairly and thoughtfully to help support vessels of all sizes and communities across the UK. Fisheries will be a separate strand of our future relationship with the EU from the future economic partnership. Through the fisheries strand there will be a separate process, whereby the EU and the UK, as an independent coastal state, will negotiate on access to waters and fishing opportunities on an annual basis.<sup>16</sup>

The then Minister provided further detail in an evidence session to the Environment Food and Rural Affairs on 17 July 2018 as to how fishing effort would be redistributed over time. The Government proposal was for an increase in the amount of fishing quota that would be retained year on year by the UK during annual exchanges of quota with the EU and other neighbouring countries.<sup>17</sup>

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<sup>12</sup> House of Lords Committee on the European Union, [Brexit: Fisheries](#), December 2016

<sup>13</sup> House of Lords Select Committee on the European Union, Energy and Environment Sub-Committee, [Oral evidence](#), Minister of State for Agriculture, Fisheries and Food, Wednesday 21 February 2018, Q2

<sup>14</sup> HM Government, [Draft Text for Discussion: Implementation Period](#), 28 February 2018

<sup>15</sup> Ibid, Q6

<sup>16</sup> HC Deb [4 July 2018 c338](#)

<sup>17</sup> EFRA Select Committee [Evidence Session](#), 17 July 2018, Fisheries, Q363

### 3. The Withdrawal Agreement

We do not yet know the nature of the relationship the UK will have with the EU after Brexit. The UK and EU had provisionally agreed there will be a transition or implementation period which will last from 30 March 2019 to 31 December 2020, during which there was agreement that the UK will continue to be bound by EU law as if it were still a member state.<sup>18</sup>

#### 3.1 The November 2018 Withdrawal Agreement

During withdrawal negotiations the EU position was that fisheries should form part of any transition agreement, with the UK complying fully with the CFP until any transition period ends.<sup>19</sup> Under the CFP the TACs are set on a calendar year basis. The original proposed 21-month transition period coincided with the 2020 quota year end and would remove the need for reaching agreement on how to set TACs for the first three months of 2021.

The focus of the discussions between the UK and the EU was on to what extent the UK would have any input in setting quotas during the transition period. The Commission's first [draft withdrawal agreement](#) in February 2018, included a reference to consulting the UK on setting UK fisheries opportunities during any transition:

**Article 125 Specific arrangements relating to fisheries policy**

As regards the fixing of fishing opportunities within the meaning of Article 43 TFEU for any period prior to the end of the transition period, the United Kingdom shall be consulted by the Commission during the decision-making process within the Council and during international negotiations in respect of the fishing opportunities related to the United Kingdom.<sup>20</sup>

The UK Government [response](#) proposed agreement with the EU, rather than consultation, with regard to negotiations on quotas for 2020. It also proposed the UK "shall participate alongside the EU and other coastal States in international fisheries negotiations."<sup>21</sup>

The [second EU draft of the withdrawal agreement](#) included significant amendments, setting out in detail how the EU it intends to consult the UK when setting fishing quotas in December 2019 for 2020. It also set out that the EU may "exceptionally" invite the UK to be part of the EU

<sup>18</sup> European Commission, [Draft Withdrawal Agreement](#), 19 March 2018, Part 4, Articles 121 and 122

<sup>19</sup> The Guardian, [EU to hold Britain to fishing quotas during Brexit transition](#), 11 January 2018

<sup>20</sup> EU Commission, [Position paper "Transitional Arrangements in the Withdrawal Agreement" TF50 \(2018\) 30 – Commission to EU 27](#), 7 February 2018

<sup>21</sup> HM Government, [Draft Text for Discussion: Implementation Period](#), 21 February 2018.



delegation at international negotiations. It also made clear the intention to maintain quota allocation based on the relative stability principle:<sup>22</sup>

**Article 125 Specific arrangements relating to fishing opportunities**

1. As regards the fixing of fishing opportunities within the meaning of Article 43(3) TFEU for any period falling within the transition period, the United Kingdom shall be consulted in respect of the fishing opportunities related to the United Kingdom, including in the context of the preparation of relevant international consultations and negotiations.
2. For the purpose of paragraph 1, the Union shall offer the opportunity to the United Kingdom to provide comments on the Commission Annual Communication on fishing opportunities, the scientific advice from the relevant scientific bodies and the Commission proposals for fishing opportunities for any period falling within the transition period.
3. Notwithstanding Article 124(2)(b), with a view to allowing the United Kingdom to prepare its future membership in relevant international fora, the Union may exceptionally invite the United Kingdom to attend, as part of the Union delegation, international consultations and negotiations referred to in paragraph 1 of this Article, to the extent allowed for Member States and permitted by the specific forum.
4. Without prejudice to Article 122(1), the relative stability keys for the allocation of fishing opportunities referred to in paragraph 1 of this Article shall be maintained.<sup>23</sup>

The above text remained unchanged in the [third](#) EU withdrawal draft agreement published on 19 March 2018 by the EU Commission, with the UK Government agreeing that the UK would comply with the CFP until the end of the transition period.<sup>24</sup> In the draft agreement document the section on fisheries was flagged as falling under the category of agreed at negotiators' level, subject to technical legal revisions. Michael Gove [explained](#) the outcome in response to an urgent question in the House of Commons as follows:

I think people not just in Buckie and Portsoy but across the north-east of Scotland—indeed, across the United Kingdom—will be disappointed that the proposal we sought to ensure would apply for 2019 does not apply for that year. However, it is important to recognise that this is a 12-month additional extension to the maintenance of the EU acquis and that we accept that the greater prize, which my hon. Friend is quite right to remind the House of, is available only if we ensure that we leave the common fisheries policy, take back control and make it absolutely clear to other countries that access and quotas will be in our hands.

Stakeholders where unhappy with the outcome. The [National Federation of Fishermen's Organisations](#) (NFFO) set out its view:

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<sup>22</sup> Relative stability allocates a fixed percentage of total allowable catches (TACs) to Member States based mainly on their agreed historic fishing activity

<sup>23</sup> EU Commission, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, TF50 \(2018\) 33/2](#), 15 March 2018

<sup>24</sup> EU Commission, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, TF50 \(2018\) 35](#) 19 March 2018

Just over three weeks ago, in her Mansion House speech, the Prime Minister couldn't have been clearer on fishing. As the UK leaves the EU on 29th March next year, the UK would leave the Common Fisheries Policy. Quota shares would be rebalanced.

It is still the case that in March next year under international law the UK will become a coastal state, separate from the EU; but the transition arrangement agreed in Brussels last week will ensure that we will be far from independent during the transition

And:

There is no escaping [...] that the transitional agreement is a reverse and a humiliation for the UK on fishing. Annual decisions on quotas will be made next year by the EU with only a notional obligation to consult the UK, although much of the fish will be caught in UK waters and the UK is, by far, the largest net contributor to the pot of resources. Decisions made with the UK outside the room will apply to the UK, in their entirety, for the period of the transition.

However, an article in *The Conversation* discussing the agreement warned that there may be further disappointment for UK fishermen in a future trade deal:

The transition deal always had an air of inevitability about it. Despite all the promises made by government ministers, the impact that fishing has on the UK's GDP relative to other member states has meant that it was always likely to be a card that could be traded off for a better deal elsewhere.

As for the ultimate end goal for the UK government on fisheries, independent coastal state status will come the UK's way eventually. It is just not going to be as quickly as some would have hoped.

The government should be wary of making further promises to the fishing industry which cannot be guaranteed. The terms and conditions that the UK accepts for the relationship with the EU after the transition period may represent further disappointment for the UK fishing industry.<sup>25</sup>

### Article 130

The arrangements for the transition period regarding fisheries are set out in Article 130 of the [Withdrawal Agreement](#) that was reached on 25 November 2018. These are the identical to the details included in the March 2018 draft.

As the [Government explainer](#) on the agreement sets, during the transition period the UK would not be able to take part in quota negotiations, but its share of quota will not be reduced. In addition, it was agreed the UK will be allowed to take part in the 2020 negotiations, for setting its own fishing opportunities in 2021:

Specific arrangements are also made in relation to fishing opportunities, to enable a smooth transition to the new relationship between the UK and the EU. During the implementation period the UK's fisheries rules will be aligned with those of the EU and the UK's share of catch cannot be reduced.

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<sup>25</sup> The Conversation, [How the Brexit transition deal let the UK's fishing industry down](#), 21 March 2018

During the last year of the implementation period, the UK will be able to negotiate its own fishing opportunities for the following year.

The UK and the EU intend to conclude a new fisheries agreement in time to determine fishing opportunities for the first year after the Implementation Period, in preparation for which during the Implementation Period the UK can be invited to form part of the EU's delegation in international negotiations.<sup>26</sup>

## The backstop

The details of the proposed 'backstop' arrangements for Ireland/Northern Ireland, which was superseded by the 2010 Withdrawal Agreement, included a reference to fisheries and trade. The UK would no longer be part of the CFP after the end of the transition period. *Article 5* of the Ireland/Northern Ireland Protocol set out that the proposed Joint Committee would set out terms for certain fishery and aquaculture products, landed by UK flagged vessels registered in Northern Ireland would be exempt from duties. *Article 6* of the Protocol, covering the single customs territory and movement of goods, set out that the free movement of fishery and aquaculture products would not be included in any backstop customs arrangements for the whole of the UK "unless an agreement on access to waters and fishing opportunities is applicable between the Union and the United Kingdom"<sup>27</sup>.

The Government summarises the agreement as follows:

The rules governing the single customs territory do not automatically apply in respect of fishery and aquaculture products. These products would be included when a UK-EU Fisheries Agreement has been reached that includes arrangements on access to waters and fishing opportunities. Nothing in this Protocol prescribes the content of that fisheries agreement, and the UK as a whole will not be part of the Common Fisheries Policy.<sup>28</sup>

The EU summarised the agreement on Ireland/Northern Ireland and whether fisheries and would form part of the single customs territory as follows:

### **Will fisheries be included in the "Single Customs Territory"?**

Arrangements on fisheries will be negotiated as part of the overall future partnership. The EU and the UK will use their best endeavours to agree on a fisheries and aquaculture agreement by 1 July 2020. An essential condition for this single customs territory to cover fisheries and aquaculture products will be to agree between the Union and the UK on access to waters and fishing

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<sup>26</sup> HM Government, [Explainer for the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union](#), 14 November 2018

<sup>27</sup> HM Government, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 14 November 2018

<sup>28</sup> HM Government, [Explainer for the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union](#), 14 November 2018

opportunities. We have shared objectives to ensure fishing at sustainable levels and promote resource conservation'.<sup>29</sup>

The 2019 [Political Declaration](#), in which the section on fisheries remained unchanged from the 2018 Declaration, sets out that any fisheries agreement should be in place for the first year after the transition period and included target date for ratifying any fisheries agreement of 1 July 2020. However, the fishing industry has expressed concerns that “the transition period will be extended beyond the agreed 20 months”.<sup>30</sup> It is not clear if any extension of the transition date would include an extension of the UK’s inclusion in the CFP.

### 3.2 The October 2019 Withdrawal Agreement

A [new Withdrawal Agreement](#) was agreed between the UK Government and the EU on 19 October 2019. *Article 5*, referring to duty on landings from Northern Irish registered vessels, remained unchanged. *Article 6*, now covering the protection of the UK internal market, does not refer to fisheries. *Article 130*, covering specific arrangements relating to fishing opportunities remained unchanged.

There were also changes to the Ireland/Northern Ireland Protocol or ‘backstop’, which would affect all trade in goods, including fish products.

As set out in the Commons Briefing Paper, [The October 2019 EU UK Withdrawal Agreement](#), under the new Protocol if the UK and EU are unable to conclude a new future relationship agreement by the end of the transition period, an open border will be able to be maintained between Northern Ireland and Ireland. In this scenario there would be a much steeper cliff edge, for trade in goods between the rest of the UK and the EU. There would also be new trade barriers for goods moving from Great Britain into Northern Ireland. This because without a trade agreement the UK would revert to ‘WTO’ trading terms with the EU, as this Protocol does not include substantive arrangements for trade in goods between the EU and the UK, other than for Northern Ireland. The previous ‘backstop’ did, and that ‘backstop’ could not be exited without the agreement of both the EU and the UK. That notwithstanding, the EU & UK are committed to reaching a future trade agreement, and the transition period can be extended for up to a further two years (if it is extended for two years it would end in December 2022).

## 4. Fisheries in a future trade deal

Beyond the transition period, the maintenance of current arrangements for sharing fisheries resources after Brexit was referred to in the European Council’s [draft negotiating guidelines for a future trade deal](#).

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<sup>29</sup> EU Commission, [Fact Sheet: Protocol on Ireland and Northern Ireland](#), 14 November 2018

<sup>30</sup> Fishing News, Brexit deal betrays fishing, 22 June 2018.

This linked continued existing reciprocal access to fisheries to the proposal for a zero-tariff trade agreement:

Trade in goods, with the aim of covering all sectors, which should be subject to zero tariffs and no quantitative restrictions with appropriate accompanying rules of origin. In this context, existing reciprocal access to fishing waters and resources should be maintained.<sup>31</sup>

A zero-tariff trade agreement would be important to the UK fish processing industry and exports, as noted by the House of Lords European Union Select Committee report [Brexite: Fisheries](#), and referred to in Section 1 above.<sup>32</sup>

And indication of the EU's aims for a future agreement were set out in [summary](#) of preparatory discussions on fisheries published in January 2018 by the Commission:

- ensure continued reciprocal access to waters, resources and markets
- define modalities on determining fishing
- opportunities, having regard to historic fishing patterns and past records of activity
- establish modalities for cooperation on joint management of transboundary stocks
- seek the highest level of convergence in management regimes.<sup>33</sup>

The European Parliament resolution on the framework set out its view that a novel form of third party agreement was required which allowed for a "high level of cooperation, coherence and convergence":

Considers, with respect to fisheries, that a novel form of third country-type of bilateral partnership agreement should be negotiated with the aim of maintaining a high level of cooperation, coherence and convergence, ensuring stable and continued mutual access to waters and resources in accordance with common fisheries policy principles and governance provisions, and sustainable management of shared stocks in order to restore and maintain populations of these stocks above levels which can produce the maximum sustainable yield; underlines that the common management of shared stocks requires the continuation of the UK's contribution to the scientific assessment of those stocks; stresses, however, that reciprocal market access for fishery products has to be negotiated as part of the future agreement, and that the access to the EU domestic market must be conditional on the access for EU vessels to the UK fishing grounds and their resources, as well as on the level of cooperation in the management of shared stocks;<sup>34</sup>

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<sup>31</sup> European Council, [European Council \(Art.50\) \(23 March 2018\) Draft guidelines](#), XT 21022/18, 7 March 2017

<sup>32</sup> House of Lords, EU Committee, [Brexite: Fisheries](#), 17 December 2016 - HL Paper 78

<sup>33</sup> EU Commission, [Internal EU27 preparatory discussions on the framework for the future relationship: "Fisheries"](#), TF50 (2018) 23 - Commission to EU 27, 17 January 2018

<sup>34</sup> European Parliament, [Resolution of 14 March 2018 on the framework of the future EU-UK relationship](#) (2018/2573(RSP))



The European Parliament also referred to the importance of preparing EU business trading in fisheries products, amongst others, to having to deal with extra customs and labelling procedures when exporting to the UK.<sup>35</sup>

Griffin Carpenter from the New Economics Foundation, set out the implications for the UK fishing and processing sector of a free trade agreement and fishing access being linked in the negotiations in a March 2018 article:

In the months since the Brexit vote, it has become clear that the twin issues of catching and selling fish are bound up in the minds of EU negotiators just as they are bound up in the financial prospects for the UK fishing industry.

Most UK-produced seafood is exported, and most of that ends up in supermarkets and restaurants in the EU. This is why, at the same time as fishermen would like more quota, they have also been clear that a “no deal” Brexit disrupting trade to the EU would be a disaster.

This prospect is particularly alarming for small fishing communities that specialise in shellfish rather than quota species (these rights are mostly owned by large trawlers) but do sell their catches to the EU market. This was one of the key findings from my economic impact assessment of Brexit scenarios for UK fisheries.

To deliver the largest quota gains possible while keeping tariffs as low as possible will not be straightforward. Walking away from negotiations will deliver neither. On tariffs, the UK would default to higher World Trade Organisation rates as well as face the worrying prospect of non-tariff barriers at EU ports.

On quota, the UK going it alone and setting a higher level only works in the longer term if the EU agrees to a lower share. The reality is that over 100 fish stocks will be shared, post-Brexit, and both sides deciding their own quota limit will inevitably harm fish stocks and the communities that rely on them. A good deal for the fishing industry requires co-operation.<sup>36</sup>

### 4.1 Separating trade and access

The UK Government published the [Fisheries White Paper](#) in July 2018. In this it rejected the EU’s position that access to fisheries should be linked to any trade agreement, referring to the latter as “a separate question”:

Access to markets for fisheries products will be agreed as part of our future economic partnership, just as with other goods and food products. This is separate to the question of fishing opportunities and access to waters, which consequently will be addressed separately, founded on the UK’s legal status as an independent coastal state. This is consistent with fisheries agreements internationally, and with EU-third country precedents. Both the EU and UK have an interest in continued trade for the fisheries and wider seafood sector.<sup>37</sup>

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<sup>35</sup> European Parliament, [Resolution of 14 March 2018 on the framework of the future EU-UK relationship](#) (2018/2573(RSP))

<sup>36</sup> The Guardian, [Rees-Mogg’s hard Brexit won’t do anything for fishing communities](#), 21 March 2018

<sup>37</sup> Defra, [Fisheries White Paper](#), 4 July 2018

Some commentators [highlighted](#) that this is not something the EU has signalled it is willing to consider and MPs [expressed reservations](#) about how achievable this would be, during the discussion on the White Paper in the Commons.<sup>38</sup> However, the NFFO was relatively confident that the UK Government's approach would be successful:

On the big-ticket issues, the White Paper is clear and confident. To be sure, the EU27 will seek at every turn to blunt its application but in truth the EU only has one weapon in its armoury and that is the nuclear option of denying the UK a free trade deal unless the UK caves in on fisheries. That would hurt many businesses in the supply chain in the EU - at least as many as in the UK. Politically, such is the parliamentary arithmetic, that the UK government could not agree to a capitulation on fisheries and survive.<sup>39</sup>

The White Paper on the [Future relationship between the United Kingdom and the European Union](#) published on 12 July 2018 included a section on fisheries. This reiterated the UK's intention to separate negotiations on trade and access to fisheries. With regards to negotiations on access it stated:

59. At present, under the CFP's principle of 'Relative Stability', the UK receives a fixed share of fishing opportunities based on historical fishing patterns in 1973-1978. On average, between 2012 and 2016, UK vessels landed approximately 90,000 tonnes of fish each year caught in other Member States' waters, and other Member States' vessels caught in the region of 760,000 tonnes of fish each year in UK waters.

60. As an independent coastal state, the UK will have control over access to its waters from the end of the implementation period. Any decisions about giving access to UK waters for vessels from the EU, or any other coastal states will be a matter for negotiation.

61. The UK, the EU and coastal states should agree to annual negotiations on access rights and fishing opportunities for UK, EU and coastal state fleets. This could include multi-annual agreements for appropriate stocks.<sup>40</sup>

During his statement to Parliament on the Fisheries White Paper, Michael Gove referred to the large proportion of UK fish exports and the Government's position on trade and fisheries negotiations:

The hon. Lady referred to the fact that 70% of the fish that we catch is exported, and of course it is, because, as I mentioned in my statement, it is high-quality fish caught by the brave men and women who go to sea. We will of course ensure through our future economic partnership, which is being negotiated separately, that we continue to have as-frictionless-as-possible access to European markets. Michel Barnier, someone whom I hugely admire, has himself pointed out that he wants to ensure that the free trade agreement that is concluded between the UK and the EU has neither quotas nor tariffs, so we can look forward to a bright future there, as well.<sup>41</sup>

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<sup>38</sup> [HC Deb c338 4 July 2018](#)

<sup>39</sup> NFFO, [White paper](#), 4 July 2018

<sup>40</sup> White Paper on the [Future relationship between the United Kingdom and the European Union](#), 12 July 2018

<sup>41</sup> [HC Deb 4 July 2018 c341](#)

## 4.2 The November 2018 Political Declaration

The [Political Declaration setting out the Framework on the Future Relationship](#) of 25 November 2018 included a reference to a future agreement on access and quotas. It linked any agreement on fisheries to the overall economic partnership, instead of setting it out as a requirement for any agreement on trade:

Within the context of the overall economic partnership, establishment of a new fisheries agreement on, *inter alia*, access to waters and quota share.

The Parties will use their best endeavours to conclude and ratify their new fisheries agreement by 1 July 2020 in order for it to be in place in time to be used for determining fishing opportunities for the first year after the transition period.<sup>42</sup>

The date for ratifying any fisheries agreement of 1 July 2020, which is before any trade agreement would come into force, was not included in the first draft of 14 November 2018.

The declaration also called for “cooperation bilaterally and internationally to ensure fishing at sustainable levels” and referred to preserving regulatory autonomy when managing fisheries.

Fisheries, including fishing enterprises and coastal communities, were also referred to in the [minuted declaration from the European Council](#) on the withdrawal agreement and political declaration from 25 November 2018:

On the basis of its successive guidelines of 29 April 2017, 15 December 2017 and 23 March 2018, the European Council will demonstrate particular vigilance as regards safeguarding the rights and interests of citizens, the necessity to maintain ambitious level playing field conditions and to protect fishing enterprises and coastal communities.

This will apply both when assessing the implementation of the Withdrawal Agreement, if the backstop is to be operationalized, and when considering the future relationship, in particular in the field of environment regarding the alignment to European standards.

As recalled in the Withdrawal Agreement, a fisheries agreement is a matter of priority, and should build on, *inter alia*, existing reciprocal access and quota shares. Such an agreement should be negotiated well before the end of the transition period.<sup>43</sup>

The fishing industry has expressed concern following the publication of the declaration, that despite the UK Government’s stated position, and that the UK is acknowledged to be an independent coastal state, access to fisheries and trade continue to be linked in the document, as reported in Fishing News:

But it has a severe downside in that it appears to link access rights of EU vessels to trade negotiations – something the industry is

<sup>42</sup> HM Government, [Political declaration setting out the framework for the future relationship between the European Union and the United Kingdom](#), 25 November 2018

<sup>43</sup> European Council, [Special meeting of the European Council \(Art. 50\) \(25 November 2018\) - Statements for the minutes](#), 25 November 2018

adamantly against – and commits the UK to remain in a customs union with the EU for at least the transition period, and possibly for much longer.

[...]

SFF chief executive Bertie Armstrong said that unless all of the prime minister's commitments to the fishing industry were fulfilled, 'no deal' would be 'a more attractive option' than the agreed deal.

The NFFO said that in the next stage of talks, UK negotiators will need to be 'tough, astute and hard-nosed' to secure the benefits of Brexit.

NUTFA said the situation 'is a farce of epic proportions' and that businesses were 'desperate for some clarity'.<sup>44</sup>

There have also been concerns raised following a reported statement by President Macron of France, reflecting on what was agreed by the European Council, linking agreement on various areas including fisheries to the use of the backstop plan:

"We as 27 have a clear position on fair competition, on fish, and on the subject of the EU's regulatory autonomy, and that forms part of our position for the future relationship talks," he said.

The president implied that without sufficient progress on trade, the backstop plan to avoid a hard border in Ireland would have to be implemented, including a temporary customs union for the whole of the UK.

"It is a lever because it is in our mutual interest to have this future relationship," Mr Macron said.

"I can't imagine that the desire of Theresa May or her supporters is to remain for the long term in a customs union, but (instead) to define a proper future relationship that resolves this problem." <sup>45</sup>

A spokesperson for 10 Downing Street responded to this point specifically, as reported by the Guardian, on 26 November:

"If the EU were not willing to engage in a genuine negotiation to replace the backstop with the future relationship or alternative arrangements, for example if it had closed its mind from the outset to the UK position on fisheries, that would put it in breach of its duty of good faith under the agreement, and we can refer this to independent arbitration," the spokesman said at a briefing for journalists.<sup>46</sup>

The French Minister of Agriculture, Didier Guillaume, also commented on the French position regarding fisheries on the same day:

The government is fully aware that the stakes of this negotiation for French fishing are high. It will be fully mobilized within the European framework and will be vigilant in defending the interests of French fishermen.<sup>47</sup>

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<sup>44</sup> Fishing News, [Brussels links fisheries access to trade](#), 22 November 2018

<sup>45</sup> BBC News, [Analysis: Macron's blunt Brexit warning to UK over fishing](#), 25 November 2018

<sup>46</sup> The Guardian, [Downing Street hits back at Macron threat over Brexit fishing deal](#), 26 November 2018

<sup>47</sup> The Local Fr, [France vows to fight for French fishermen after London hits back at Macron](#), 26 November 2018

### 4.3 The October 2019 Political Declaration

A [new Political Declaration](#) was agreed between the UK Government and the EU on 19 October 2019. The section covering fisheries, paragraphs 73 to 76, remained unchanged.

## 5. Fisheries and No Deal

A no deal brexit would have an immediate impact on access to fishing grounds for both EU and UK flagged vessels. There would also be an impact on trade in fish products which would be subject to a range of tariffs when exporting to the EU and could be affected by any customs delays. In addition, the UK would be responsible for patrolling and enforcing the exclusion of foreign vessels within the UK 200nm Exclusive Economic Zone and negotiating yearly fishing agreements on shared stocks with neighbouring countries.

UK fishing vessels quota allocations for 2019 would not change unless the fishing authorities decide to make any amendments, because it is a UK competency.

### 5.1 Access to fishing grounds

A no deal Brexit, in which there was no transitional agreement on fisheries until the end of 2020, would mean that the UK would become an independent coastal state from exit day taking over responsibility for its EEZ. The UK would no longer be bound by the Common Fisheries Policy and could deny access to EU Member States' vessels. Likewise, UK vessels which currently fish in other Member States' waters could be denied access by the EU. However, under international legislation ([UNCLOS](#)), there is an emphasis on the need for States to minimise economic dislocation for other States whose nationals have habitually fished in a zone.

In the event of a no deal, should the Government decide to introduce any immediate changes to access to fisheries, the impacts for the different parts of the fishing industry would depend what changes are made. [UK in a Changing Europe](#) noted in its briefing on the [Cost of a No Deal Revisited](#) that, unlike in other areas, maintaining the current approach could be difficult for the Government:

The government's mitigation strategy in key policy areas has been to manage disruption through unilaterally retaining the status quo. However, this approach seems unsustainable in the case of fish. Maintaining current levels of EU access to UK waters would be politically problematic in the event of no deal; the pressure on the government to reclaim control of UK waters would be substantial.<sup>48</sup>

After Brexit the UK Government will have to reach agreement on a common framework for fisheries with the devolved administrations. In

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<sup>48</sup> UK in a Changing Europe, [Cost of a No Deal Revisited](#), 3 September



the case of a no deal scenario UK in Changing Europe notes that this will have to be “resolved as a matter of urgency”.<sup>49</sup>

The Fisheries White Paper did not include any detail on the Government’s position on fisheries in the event of no deal on Brexit. In the longer term, as set out in the [White Paper](#), the Government plans to maintain the system for the existing quota while exploring new ways to allocate any additional fishing opportunities that arise as a result of leaving the CFP.

## 5.2 Tariffs and trade

In 2017, UK exports in fish and related products to the EU were worth £1.3 billion and comprised 70% of all UK fish exports from the UK by value. Fish imports from the EU were worth £1.1 billion (34% of all fish imports to the UK by value).<sup>50</sup>

The impact of a no deal Brexit on the fisheries industry’s ability to export and trade is likely to be felt across the sector. With no agreement, as in other areas, trade in fisheries products would default to WTO tariffs. Generally, tariffs are higher on the most processed fish products. Defra set out, in evidence to the House of Lords Select Committee on Europe in 2016, examples of the level of tariffs that the EU currently applies to Most Favoured Nations (MFN) under WTO rules:

The EU’s MFN tariffs on fisheries products range from 0% (e.g. on imports of fresh eels) to up to 25% (e.g. on fillets on processed mackerel). Generally, tariffs are higher on highly processed products compared to lightly or unprocessed products – for example, the EU’s MFN tariff on unprocessed salmon is 2%, while the tariff on prepared salmon is 5.5%. The EU’s MFN tariff for the UK’s five products lines with the largest exports to the EU are shown below, with their HS product code:

- Fresh, whole Atlantic Salmon, exports to the EU worth £168m in 2014 (HS 03021400): 2%
- Live, fresh or chilled scallops, exports worth £62m in 2014 (HS 03072100): 8%
- Frozen unsmoked Norway Lobsters (Nephrops), exports worth £56m in 2014 (HS 03061590): 12%
- Not frozen and unsmoked Norway Lobsters (Nephrops), exports worth £45m in 2014 (HS 03061590): 12%
- Frozen whole mackerel, exports worth £44m in 2014 (HS 03035410): 20%.<sup>51</sup>

In its evidence, Defra also highlighted the EU would also face tariffs on fish exports to the UK and that “such an arrangement is unlikely to be attractive to the EU”.<sup>52</sup>

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<sup>49</sup> UK in a Changing Europe, [Cost of a No Deal Revisited](#), 3 September

<sup>50</sup> [UK Trade Info database](#), downloaded in April 2018, using product code SITC 03 – ‘Fish, crustaceans, molluscs & aq. inverts & preps thereof’

<sup>51</sup> House of Lords Committee on the European Union, [Brexit: Fisheries](#), December 2016, [Defra written evidence](#)

<sup>52</sup> House of Lords Committee on the European Union, [Brexit: Fisheries](#), December 2016, [Defra written evidence](#)

In addition to tariffs, fisheries products, as all perishable products, could be impacted by any increased delays at borders resulting from greater custom controls. Box 1 below sets out concerns expressed by the UK shellfish sector on the impacts of a no deal scenario.

### Box 1: Shellfish Sector

The shellfish sector does not fall under the CFP quota system, other than for Norway lobster and northern prawn in certain areas, and therefore fishing opportunities would be unlikely to change significantly as a result of the UK being outside the CFP.

However, a report commissioned by Shellfish Association, NFFO and SFF, published in July 2018 and [reported by Fishing News](#), highlighted the impact of a no-deal on an industry that relies on “smooth unimpeded trade”:

Businesses throughout the shellfish supply chain in the UK and in the EU are reliant on smooth, unimpeded trade. We are dependent on the European market, but likewise there is heavy dependence on our products on the continent. We have undertaken this study to identify the issues to ensure that, as far as possible, no part of our industry will be disadvantaged. The study makes clear that both in terms of the tariff regime but also non-tariff barriers, there is a great deal at stake.<sup>53</sup>

The article goes on to highlight the conclusion that “the possibility of replacing EU markets with alternative high-value markets is challenged not only by the difficulty of reproducing such traditions through marketing, but also by the global production and trade of most shellfish types” The article refers to an estimated cost of EU tariffs to the sector of £41m per year, in the event of no deal.

## 5.3 EEZ enforcement

The Royal Navy is boosting its fishery patrol fleet ahead of the UK's exit from the European Union. The Fishery Protection Squadron [enforces fishery protection laws](#) by patrolling the British fishery limits and conducting inspections of fishing vessels.

In November 2018 the Defence Secretary [announced](#) three patrol ships will be retained in service for at least two more years “to bolster the UK's ability to protect our fishing fleet” as the UK exits the EU. This is being funded from the [£12.7m pot of money](#) awarded to the MoD in 2018-19 by the Treasury as part of its funding for departments to “realise the opportunities from EU exit.”

The Royal Navy is in the process of replacing its current four-strong River-class fleet with five new batch II River-class offshore patrol vessels (OPVs), two of which are already in service. Three batch-I ships (HMS Tyne, HMS Mersey and HMS Severn) will operate from their affiliated cities (Newcastle, Liverpool and Cardiff). Read more about the Fishery Protection Squadron and Brexit in Library Insight '[The Royal Navy, Brexit and UK Fisheries](#)'.

Concerns were raised as the result of a document, [released unintentionally by Defra](#) in August 2019, that referred to difficulty of

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<sup>53</sup> Fishing News, [Brexit shellfish threat: No deal Brexit shellfish warning](#), 30 July 2018

patrolling the UK 200nm Exclusive Economic Zone with 12 ships.<sup>54</sup> An editorial of Fishing News reflected on the implications:

Doubts have been expressed by senior Navy personnel such as former First Sea Admiral Lord West, who would be expected to have an inside knowledge of the patrol capacity required for the task. Lord West has expressed his view again after the astonishing government email, sent to the media in error, that says we have only 12 ships to enforce our regulations in an area three times the size of the surface area of the UK.

Lord West said that there are 'not enough vessels in all the agencies to ensure the safety and security of our territorial seas and the protection of our fishing zones'.

[...].

But the problem will become particularly acute in the event of a no deal Brexit on 31 October – which is looking increasingly likely – when we will immediately take full control of our EEZ as an independent sovereign state.<sup>55</sup>

## 5.4 Funding for fishing communities

The EU provides funding for fishing communities through the [European Marine and Fisheries Fund](#), (EMFF) which is part of the CFP, and runs to 2020. The UK has an allocation of [€243m](#) for the period 2014-2020. The EMFF falls under the 2014-20 Multiannual Financial Framework allocation for structural and investment funds and as the Government made clear in the notice on [The government's guarantee for EU-funded programmes if there's no Brexit deal](#), it has guaranteed its funding until 2020.

Further funding for the UK and English fishing sector beyond 2020 was announced by Defra in [December 2018](#) and [October 2019](#).

## 5.5 Quota negotiation with neighbouring countries

As soon as the UK leaves the EU it will be negotiating as a third country with neighbouring states to agree national quotas for shared fish stocks. The [Fisheries White Paper](#), *Sustainable fisheries for future generations*, published in July 2018, set out the Government's intention to continue to co-operate closely with the EU and other coastal states on the sustainable management of fish stocks that cross borders, and states that "any decisions about giving access to our waters for vessels from the EU, or any other coastal states including Norway, will then be a matter for negotiation".

However, as noted in the editorial of Fishing News from 22 August 2019 it is unlikely that there would be any immediate change in national quota share, but negotiations would have to start swiftly to have any agreement in place for 2020:

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<sup>54</sup> BBC News, [Brexit: Email slip-up reveals no-deal fishing patrol 'uncertainty'](#), 10 August 2019

<sup>55</sup> Fishing News, Patrol power must be beefed up, 22 August

There will presumably be a rollover of current arrangements until the end of the year, but we will then have to sit down as a third country and negotiate a fisheries deal for 2020 with the EU and Norway.<sup>56</sup>

The Government announced on 30 September 2019 that the UK and Norway had signed a [continuity agreement](#) which would enable continued mutual access under existing rules until the end of 2019.

### 5.6 UK No Deal advice for fisheries industry

The Government published a [technical note on commercial fisheries](#) on 15 October 2018. The note covered access to UK and EU waters, access to UK and EU ports, import and export of fisheries products, labelling and funding. The note was replaced by a note on [Fishing and marketing of seafood if there's no Brexit deal](#) published on 10 January 2019. This was withdrawn and replaced by [Prepare your fisheries business for a no deal Brexit](#), published on 29 August 2019.

The latest advice on makes clear that after no deal the UK will be responsible for managing UK waters and that “non-UK vessels, including EU, EEA or Switzerland registered vessels, will no longer have the automatic right to fish in UK waters”.

The advice states that the “future access [for UK vessels] to fish in EU and other coastal state waters in a no-deal Brexit is still under negotiation”. It also makes clear that existing regulations will continue to apply to UK vessels and that they must comply with legislation and licence conditions.

With regards to quota allocations it states:

The UK fisheries administrations will confirm any changes to your allocation. There will be no means for the UK to exchange fishing opportunities (quota and effort) with EU member states.<sup>57</sup>

UK vessels will no longer have any automatic right to land fish in EU ports, other than in [EU designated ports](#) unless in distress or there is an unexpected event. To do this fishing vessels will have to have all the required documentation and could be subject to inspections. This is also set out in the [EU preparedness note on fisheries](#). The same rules will apply to EU vessels landing fish in the UK.

According to the [Commission website](#) the EU, represented by the Commission, plays an active role in a number of RFMOs.<sup>58</sup> The note makes clear that if the UK leaves the EU it will have to apply for membership of the relevant conventions as independent member state. This process could take up to six months and during this time “UK vessels may not be able to fish international waters covered by RMFOs” during that time. The RMFOs include the [North-East Atlantic Fisheries Commission](#) (NEAFC) which extends into the Atlantic beyond EU EEZs. For a map of the area covered by NEAFC see [here](#). Other RMFOs that cover the North Atlantic include the [Northwest Atlantic Fisheries](#)

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<sup>56</sup> Fishing News, Patrol power must be beefed up, 22 August

<sup>57</sup> Gov.uk [Prepare your fisheries business for a no deal Brexit](#), 29 August 2019

<sup>58</sup> 11 non-tuna RFMOs and 6 tuna RFMOs

[Organization](#) (NAFO) and the [North Atlantic Salmon Conservation Organisation](#) (NASCO).

The note also sets out the requirements that will need to be met to be able to import and export and land fish at EU ports. It also confirms all EMFF projects approved before 31 December 2020 will be fully funded.

## 5.7 EU preparedness notice to stakeholders

The EU Commission published a [preparedness notice to stakeholders on Fisheries and Aquaculture](#) in April 2018, setting out how UK withdrawal would impact both the UK and EU sectors in the absence of any kind of withdrawal agreement. It sets out that under [Regulation \(EU\) 2017/2403](#) on the sustainable management of external fishing fleets, EU flagged vessels would need to obtain authorisation from both the UK and EU to fish in UK waters, and that UK vessels would have to obtain EU authorisation to fish in EU waters.

With regards to landings, as the third country the UK would only be able to land or transfer fish at [designated EU ports](#) as set out in [Regulation 1005/2008](#). The Regulation also requires third country vessels arriving at EU ports are inspected to ensure they comply with requirements on illegal, unreported and unregulated fishing (IUU). In addition, under the Regulations the UK would be required to send a flag notification to the EU to be able to export fish products to the EU:

In order to export fishery products caught by third country flagged fishing vessels to the EU, the Commission has to have received a notification from the flag State. As of the withdrawal date, this applies to the United Kingdom.<sup>59</sup>

UK exports to the EU, together with EU exports to the UK, would also require to be accompanied by a catch certification from the relevant competent authority:

The catch certificate to be validated by the United Kingdom must certify that the catches concerned have been made in accordance with applicable laws, regulations and international conservation and management measures. The catch certificate must have been validated by the United Kingdom competent authority.<sup>60</sup>

The Commission published a further FAQ document in July 2018 addressing the impact of a no deal. This sets out the EU's intention of maintaining the 2019 quota as distributed, and that mutual access to fishing waters would stop unless otherwise agreed by the EU and UK.

### Certification of organic aquaculture products

As set out in the [Commission's notice](#), EU regulations require organic aquaculture products sold in its markets to be certified as such and that "a no-deal scenario would make UK issued certificates invalid".

The Government preparedness note [Producing and processing organic food if there's no Brexit deal](#), explained that businesses could experience

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<sup>59</sup> EU Commission, [Preparedness notice to stakeholders on Fisheries and Aquaculture](#), 9 April 2018

<sup>60</sup> EU Commission, [Preparedness notice to stakeholders on Fisheries and Aquaculture](#), 9 April 2018



delays of up to 9 months after a no deal Brexit. This is because UK organic control bodies offering the necessary certification for export to the EU would need to seek approval by the EU. The Government stated it was hoping to find ways to speed this process up.<sup>61</sup>

## EU contingency proposals to mitigate impact of “no-deal” on fisheries

The EU Commission [published](#) its proposed contingency plan for a no-deal and fisheries on 23 January 2018. It plans to regulate for extra funding through the EMFF to compensate for the cessation of fishing activities. It also proposes to regulate for continued access for UK vessels in EU waters based on 2019 quota allocations as long as the UK allows EU vessels into UK waters on similar terms.

The first proposal is to allow fishermen and operators from EU Members States to receive compensation under the European Maritime and Fisheries Fund for the temporary cessation of fishing activities. This will help off-set some of the impact of a sudden closure of UK waters to EU fishing vessels in a no-deal scenario.

The second proposal amends the Regulation on the Sustainable Management of the External Fleets. The aim of this proposal is to ensure that the EU is in a position to grant UK vessels access to EU waters until the end of 2019, on the condition that EU vessels are also granted reciprocal access to UK waters. The proposal also provides for a simplified procedure to authorise UK vessels to fish in EU waters and EU vessels to fish in UK waters – should the UK grant that access. This proposal is limited to 2019 and is based on the agreement in the Agriculture and Fisheries Council of 17 and 18 December 2018 on the fishing opportunities for 2019.

These contingency measures cannot mitigate the overall impact of a “no-deal” scenario, nor do they in any way replicate the full benefits of EU membership or the terms of any transition period, as provided for in the Withdrawal Agreement. They are limited to these specific areas where it is absolutely necessary to protect the vital interests of the EU and where preparedness measures on their own are not sufficient. As a rule, they will be temporary in nature, limited in scope and adopted unilaterally by the EU.

### Next steps

These proposals are subject to the co-decision procedure. The Commission will work with the European Parliament and the Council to ensure the adoption of the proposed legislative acts so that they are in force by 29 March 2019.<sup>62</sup>

## 5.8 Longer term impacts

The [New Economics Foundation](#) published a report on the impact of various Brexit scenarios on fisheries, [Not in the same Boat](#) in November 2017. In a modelled no deal scenario, where there was agreement with the EU on shared fish stocks which increased UK share of stock, WTO tariffs were applied on trade and EU vessels were excluded from UK

<sup>61</sup> Defra, [Producing and processing organic food if there's no Brexit deal](#), 23 August 2018

<sup>62</sup> EU Commission, [Brexit preparedness: European Commission adopts two contingency proposals to help mitigate impact of “no-deal” Brexit on EU fisheries](#), 23 January 2018

waters, there was an overall increase in catch and profitability for the sector. However, this was not evenly distributed, with the benefit mainly accruing to UK flagged vessels, fishing offshore, that have quota for species that currently fall under the CFP:

This divide in quota ownership is one of the contributing factors to a sharp divide in current economic performance, with the large-scale fleet recording profit margins of 19% and the small-scale fleet operating at a profit margin of 0%. As the gains from quota increases accrue to those who hold the quota rights, these gains further entrench the 'haves and have nots' of UK fisheries. Small-scale vessels also see little benefit from exclusive access out to 200 nautical miles, as they fish exclusively in inshore waters.<sup>63</sup>

It should be noted that the study did not include in its no deal model any new obstacles to trade with the EU, although it did highlight the potential negative of impact of these for fisheries trade:

New obstacles to selling to the EU market – such as product standards and port inspections – are also a significant concern for the future economic performance of the UK fishing fleet. Fortunately, the UK is starting from a good position: current product standards are harmonised. However, to avoid border delays and inspections, there will need to be a continued close relationship between the EU and the UK on fisheries and the avoidance of an adversarial relationship that could ultimately force the EU to retaliate with a strong and obstructive hand.<sup>64</sup>

A study, [Impact of hard Brexit on European fisheries](#), published by the Wageningen University and Research in April 2018, modelled the impact for the EU as a whole of loss of a mutual access to waters, together with the application of non-tariff measures (NTM) and the cost of measures required to facilitate trade. The study covered fisheries, aquaculture and fish processing. The authors concluded that a hard Brexit would lead to reduced fish prices in the UK and noted that the fish processing and aquaculture sectors could decline due to the impact of trade measures:

If the United Kingdom (UK) would completely close its marine areas, the UK, Ireland, the Netherlands and Belgium would be affected the most. For the UK aquaculture and fish processing production will decline due to trade measures. For the other three countries production of all fish producing sectors will decline. Also, because of a higher production volume of wild fisheries in the UK, the price of fish in this country will go down, resulting in lower production value and thus income of the sector. In the whole of Europe fish prices will rise. Especially Irish consumers will have to dig deep into their pockets: fish prices can increase up to 8%.<sup>65</sup>

[Fishing for Leave](#) criticised the study, particularly the conclusion that a no deal would lead to an increased UK fish production of only 15%.<sup>66</sup> It responded by highlighting the large potential increase in available

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<sup>63</sup> NEF, [Not in the same Boat](#), November 2017, p4

<sup>64</sup> NEF, [Not in the same Boat](#), November 2017, p73

<sup>65</sup> Wageningen University and Research, [European consumers pay the price for fish when hard brexit occurs](#), 24 April 2018

<sup>66</sup> Wageningen University and Research [Impact of hard Brexit on European fisheries](#), April 2018, p11

catches to UK flagged vessels that could follow if other vessels were excluded from UK waters:

Currently the EU catches 675,000 tons in UK waters – 60% of the fish caught in the UK sector – whilst the UK only catches 88,000 tons or 16% of the fish taken in EU waters.<sup>67</sup>

The [Wageningen report](#) does refer to an increase in fisheries access having the potential to increasing fisheries landings in the UK by up to 60%.<sup>68</sup> However, it concluded that for this to be realised would require no trade measures being put in place by the EU, and that this would be unlikely:

Gains of \$400m could be expected if UK gains back its fishing territories and there are no trade protectionism measures. However, under NTMs and MFN [most favoured nation] tariffs, which is the more likely scenario, most of these gains are faded away and there is a zero sum.<sup>69</sup>

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<sup>67</sup> Fishing for Leave, [Flawed Fisheries Report Brings Serious Questions Over Economists Analyses](#), 27 April 2019

<sup>68</sup> Wageningen University and Research [Impact of hard Brexit on European fisheries](#), April 2018, p5

<sup>69</sup> Wageningen University and Research [Impact of hard Brexit on European fisheries](#), April 2018, p11

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