

FRC Food Brexit Briefing

Fish, fishing and Brexit

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Abbreviations

CFP	Common Fisheries Policy
DEFRA	Department for Environment, Food and Rural Affairs
EEC	European Economic Community
EEZ	Exclusive Economic Zone
EMFF	European Maritime and Fisheries Fund
EU	European Union
FQA	Fixed Quota Allocation
FfL	Fishing for Leave
MMO	Marine Management Organisation
MSC	Marine Stewardship Council
MSY	Maximum sustainable yield
NFFO	National Federation of Fishermen's Organisations
PO	Producer Organisation
SFF	Scottish Fishermen's Federation
TAC	Total Allowable Catch
UNCLOS	United Nations Convention on the Law of the Sea

Executive summary

Fishers have wholeheartedly supported leaving the EU, believing that it and the Common Fisheries Policy (CFP) have been the cause of the difficulties that their industry has experienced in the last four decades, difficulties that many continue to suffer. However, the real causes were changes in the international rules governing access to fisheries, overfishing which required drastic remedial measures and the UK's own policies. The CFP, after a painfully long time-lag, has in the last decade begun to be an effective engine for sustainable fishing but British domestic policies governing quota distribution have not changed and need reform. Over the period, the fishing industry has ceased to be primarily a source of food for the domestic supply chain and become geared to exports while much domestic consumption depends on imports.

At the end of the anticipated Brexit transitional period, when Britain starts acting as an independent coastal state, the fishing industry expects a large quota bonus. In reality, the overriding priority of maintaining sustainable fisheries and the complementary export-import activities of different parts of the seafood industry, including different fishing sectors, mean that getting the right fishery and trade agreements with the EU is at least equally important, justifying trade-offs. In any case, more quota alone will not solve current problems in the fishing industry and will make the need for domestic reform of quota policies even more obvious.

Recommendations

> **Manage fisheries on the basis of scientific advice**

Politicians of all parties and people in the fishing industry should commit to an effective fisheries management system in which scientific advice is fully followed, no excess quotas are set and fishing activity follows the rules. They should stop criticising the CFP for the problems resulting from their failures to act on this basis in the past as earnest for future intentions.

> **Strengthen the Fisheries Bill objectives**

Parliamentarians should press for, and the Government accept, amplification of the objectives in the Fisheries Bill: the sustainability aim should be strengthened by a specific maximum sustainable yield (MSY) target and the objectives should include prosperity for all sectors of the industry and greater emphasis on how fishing can best contribute both to food supply and to the social sustainability of coastal communities.

> **Set out specific policies for sustainable fishing in the ‘fisheries statements’**

The authorities responsible for producing the ‘fisheries statements’ mandated in the Fisheries Bill should ensure that these objectives are translated into specific policies for the sustainable exploitation of all commercially fished stocks, whether or not subject to quotas, and should publish annual statements on their status.

> **Reform the domestic quota system**

The Government together with the devolved administrations should institute a thorough reform of the domestic quota system, involving the following elements:

- A process involving a range of stakeholders from all regions is needed to consider the basis for a new quota allocation system, including its objectives, allocation mechanisms and review procedures. It should involve a public debate about what kind of fishing industry is wanted and how best to achieve it.
- The system should be based on fair distribution across all sectors of the fleet, on rewarding the most sustainable forms of fishing and on public recompense for the valuable right to fish as well as towards the costs of fishery management.
- There should be a balance between retaining the necessary flexibilities of quota trading with restrictions that prevent complete financialisation and ownership by individuals or companies not directly involved in fishing.
- If, as currently planned, the outcome of the Brexit process is that the UK is out of the single market, rules to limit foreign ownership should be instituted and enforced.
- There should be a review of the role and functioning of Producer Organisations (POs) which should work to transparent rules and be accountable not just to their members but to the wider community over their dealings in quota, a public resource.

Prioritise sustainability in EU negotiations over shared stocks

In negotiating the expected agreement with the EU over the management of shared stocks and ongoing annual quota negotiations, the Government's aim should be to prioritise ongoing sustainability. This will be best served by a give and take approach in which the understandable desire to increase UK quotas is balanced by respect for the established fishing patterns of other countries with which waters have been shared for a very long time.

Make straightforward trade a priority

In negotiating the future relationship with the EU the Government should also give high priority to the needs of a considerable part of the seafood industry for frictionless trade with minimal border delays. Above all, a no-deal exit must be avoided because of the chaotic and destructive consequences that are predicted to result.

Maximise quota access to stocks useful for domestic consumption

A food-focused approach to Brexit and fisheries should inform the Government's priorities in negotiations over international quota sharing with the EU and others so as to maximise shares of stocks which will be useful for domestic consumption.

Maintain alignment with EU regulations

Governments must ensure that the current food hygiene, traceability and labelling regulatory system for seafood are fully retained and kept updated in line with EU regulation; this will be necessary both for consumer protection and to facilitate seafood exports.

Produce immigration rules that support the industry's labour requirements

The Government should ensure that the labour needs of the seafood industry, which requires workers with specific skills and experiences, can be met by the new immigration system. They are unlikely to command the salary levels currently proposed as the threshold for skilled migrant entry so this needs to be changed.

Encourage domestic consumption of fish caught by the British fleet

To assist the fishing industry in serving the domestic market, Government agencies should take an active public approach to encouraging greater consumption of both the diverse range of species available in some fisheries and the herring and mackerel of which so much is caught by the British fleet, the latter to contribute to the one portion a week of oily fish recommended in nutritional guidelines.

Fishing in the Brexit debate

There were no doubts about what choice fishermen would make in the European Union (EU) referendum. They have been identified as a group with particularly negative views about the EU and, questioned in advance, the overwhelming majority intended to vote leave.¹ The incident in which a flotilla of vessels organised by the Fishing for Leave (FfL) campaign cruised up the River Thames to be met by rival remain-supporting boats marked a notable incident in the period leading up to the vote.²

Since the referendum outcome in favour of Brexit, the fishing industry has been active and vocal in pressing for Britain to decisively leave the EU's Common Fisheries Policy (CFP) and establish its own approach as an independent coastal state under the United Nations Convention on the Law of the Sea (UNCLOS). This international agreement allows each coastal state to declare a 200 nautical mile Exclusive Economic Zone (EEZ) from its baseline³, or to a median line where such zones overlap, in which it has control over resources including fish. UNCLOS was agreed in 1982 and formally came into force in 1994 when the required ratifications had been confirmed.

Many in the fishing industry have been angry for years about both the share of fishing quotas held by the UK under the CFP and about the principle under this policy of equal access for member states to shared waters, their pooled EEZs.⁴ The British share of quota is seen as a very inadequate reflection of fish stocks in the UK zone. Analysis of land-

ings carried out since the referendum and covering the period 2011 to 2015 has indeed shown that less than half (43%) of fish and shellfish from UK waters landed by EU vessels was from UK registered vessels; non-UK boats from other EU countries landed eight times more in weight, five times more in value, from the British EEZ than British boats did from the waters of other EU countries.⁵ Based on 2016 landings, an increased share has been calculated to offer considerable financial gain; even if British boats were to correspondingly lose the value of what is fished in the waters of the rest of the EU there would be a net gain (Napier 2018).⁶ However, the UK fleet is not homogenous and certain segments would lose while others gained under such a scenario as they fish for different species in different seas.

There has been widespread dislike among fishers for the CFP as a whole and particularly for its cornerstone mechanism of quotas which ration and share out the amount of fish that can be legally taken each year. It is common for the CFP to be blamed for the considerable contraction of Britain's fishing fleet in terms of vessel numbers that has taken place over recent decades and the resulting impact on land infrastructure and coastal communities. The terminology of 'sell-out' and 'betrayal' is frequent. A post on the FfL website dated shortly before the referendum introduced some writings by Fred Normandale as about 'how British fishermen were sold out and how the EU is crippling Britain' and includes a passage stating that since 'our national waters' were 'surrendered to Europe' the British fishing industry has been in constant decline.⁷ A statement issued after a meeting of fishing organisations about Brexit held after the referendum stated 'fishing should not be

sacrificed to other national priorities as it was in 1973'.⁸

A former environment Secretary of State has referred to the CFP as a disaster 'beyond reform'⁹ while the incumbent at the time of writing (January 2019) is quoted as stating that the CFP 'damaged the UK's fishing industry and our precious fish stocks'.¹⁰

But how well founded are these views that Britain was stitched up, that there was a betrayal by British politicians in the negotiations for Britain's 1973 entry into what was then the European Economic Community (EEC)? Has the CFP been a failure and a disaster for British fishing? Is it the CFP that has caused the present difficulties faced by many fishers, particularly those in the small-scale sector? The historical facts cast doubts on all of these beliefs.

The Common Fisheries Policy and the UK

To understand what really happened in Britain's relationship with Europe and the CFP it is necessary to start with its fishing industry in 1970, the point when accession talks began for the UK and certain other countries to join the EEC. The British fishing fleet then had three broad sectors: the inshore fleet of smaller boats, then trawlers and other larger vessels fishing in the North Sea and finally the distant waters fleet which ranged north round Iceland and as far as the Barents Sea. The last of these was the most highly capitalised with the largest vessels, many with freezer capacity.¹¹ With more powerful vessels reaching areas which had been little fished previously, so providing

huge catches, and serving a large domestic market for cod and haddock, it was doubtless the most profitable sector. This was in the years before the UNCLOS agreement when both the fleet and British governments of the time promoted the principle of open seas - that is they opposed the idea of fishing being limited by EEZs.

The open seas policy was challenged when Iceland took successive steps to exert control over its waters. In 1950 it had pronounced a modest four-mile zone but a more significant move was a 12-mile declaration in 1958 which elicited a formal UK objection, supported by other western European countries. The era of the 'cod wars' when Royal Navy warships accompanied British trawlers in these waters began, the first stage ending when UK accepted the 12-mile limit in 1961.¹²

The UK subsequently engaged in its own consideration of a 12-mile regime, supporting what became the 1964 London Convention agreed by 13 countries. This reserved the near six-mile coastal band to each individual country but fishing in the six- to 12-mile zone was permitted to the others if their nationals had been customarily doing so during a 10-year reference period up to 1962. The British 12-mile zone claim was formalised in the Fishery Limits Act 1964.

Just before the EEC accession talks began, the existing six countries stole a march on the anticipated new members, including Britain, who had significant fishing interests. They agreed an initial fisheries policy defined by equal access to other member states' waters and a common market in fishery products, thus presenting a *fait accompli* to the applicants.¹³ As with other established arrangements, not least the Common Agriculture

Policy, this was then not a matter for negotiation but rather 'take it or leave it'. One applicant country, Norway, eventually took the latter course and did not join. Britain and the others continued to pursue EEC membership in expectation of a broad range of benefits. In any case a significant derogation to equal access was negotiated so that it would not apply to the 12-mile zone for 10 years; this derogation subsequently became effectively permanent when extended in future CFP revisions. While the accession negotiations were proceeding, Iceland declared a 50-mile zone in 1971 precipitating British objections, another round of incidents and then a 1973 agreement.

So at the point when Britain became a member of the EEC in 1973, the country only claimed jurisdiction over the 12 miles governed by the London Convention, had been struggling against Iceland's 50-mile claim for the benefit of its own distant waters fleet and still upheld an open seas policy. Under these circumstances, conformity with the equal access policy, not a matter of choice and carrying the 12-mile derogation, may well have seemed acceptable. It is certainly hard to see why it should be characterised as a betrayal.

The third stage of the cod wars followed not long after when Iceland asserted a 200-mile exclusive zone in 1975. After a final brief conflict this too had to be accepted by Britain and indeed moves to declaring such EEZs were becoming more widespread. The EEC countries followed suit in concert, the declarations to take effect from January 1977. The UK legislated for this in the Fishery Limits Act 1976 (though formally specifying its EEZ as such only took place much later in the Marine and Coastal Access Act 2009). Such declarations anticipated and were part of the pressures that

resulted in UNCLOS which, it should be recalled, was not agreed until 1982. For British fishing, the acceptance of EEZs and that of Iceland in particular meant the end of the distant water fleet. Because of EEC equal access, the newly declared EEZs of member states became a single pool of shared waters except for the 12-mile derogation.

So far EEC fisheries policy only existed as the equal access principle plus the promotion of a common market and did not incorporate fishery management. The CFP as now understood really began only in 1983, after years of negotiation, with two regulations. One contained broad measures to promote conservation; the other dealt with supporting technical measures like net mesh sizes. The former introduced Total Allowable Catches (TACs) - quota - for the key commercial species, with shares allocated to member states on the basis of 'relative stability'. The actual quotas for each species were to be decided annually by the fishing ministers of member states on the basis of scientific advice before being divided between them.¹⁴

Here we come to the heart of the resentment felt against the CFP by so many British fishers: how quota is shared out between countries. The relative stability principle fixes the proportion of each quota stock received by member states to fishing patterns in the North Sea and Atlantic during the reference period 1973-1978. This applies to the quota collectively held by the EU, which for externally shared stocks involves prior negotiations with countries outside it. Such a rule was intended to provide for continuity and fishers carrying on roughly as they had been. Britain did better than that, being one of only two member states to get an additional allocation to support fishery-dependent

coastal communities (termed the Hague Preferences) and another one to compensate for loss of access to distant waters.¹⁵ Immediate reaction to the deal from the British fishing industry was mixed, as recounted by a journalist who covered the negotiations for the trade paper *Fishing News*; he spoke to Scottish trawler skippers and to English fishing representatives; some of them did talk about betrayal but others thought what had been agreed was reasonable.¹⁶

The trouble was that continuity was not possible for all sectors of the British industry, a considerable part of which had not recently been fishing in the relevant waters; this applied particularly to English, less so to Scottish boats. During the years when the more powerful section of the English fleet had moved from nearer waters to trawl round Iceland, other countries had developed their fishing industries in the North Sea.¹⁷ The 1973-1978 reference period for determining historic catches cut across the cod wars and the eventual recognition that the distant waters fleet could no longer continue. The additional quota to reflect distant waters fishing that had only recently ceased was unlikely to be an adequate substitute, given how large a proportion of fishing activity this had been for the British fleet. A further point was that the reference period data was flawed, particularly incomplete in relation to smaller vessels.¹⁸ These factors underlie certain perceived anomalies of quota share, such as in the (English) Channel and the Celtic Sea which have become a particular cause of bad feelings.¹⁹

While the CFP as a whole has undergone 10-yearly reviews resulting in considerable change, the fixed percentages of stocks allocated to each country by relative stability have always been excluded.

The only formal adjustments have been in order to include new accession countries. In practice, flexibility in the system is provided by widespread quota exchanges across member states which may result in different percentages actually occurring in practice²⁰ but the starting point in each annual quota allocation is set by the relative stability proportions modified by the Hague Preferences. It is interesting that the UK, unlike certain other member states, did not raise formal objections to relative stability nor try to obtain changes,²¹ not surprising perhaps when this would have involved reconsidering the advantage bestowed by the Hague Preferences.

UK landings declined after a peak in 1973²² but as fisheries management under the CFP had not actually started at the time, did not in fact start for another 10 years, the cause was clearly elsewhere.²³ Natural fluctuations may have played a part but the main factors were the long-term decline in stocks due to overfishing and the contraction of fishing opportunities at the end of the cod wars. Pressures caused by overfishing had been evident periodically in the past but had often been side-stepped by bigger boats going further afield to new fishing frontiers. This was the process that had led to British vessels fishing round Iceland and it was the Icelanders' concern about resulting pressures on stocks that had led to its successive steps in exerting control of their waters. However, the coincidence may have fed the belief in the fishing community that it was Europe that did it.

The years following the 1983 introduction of the CFP were very hard for people in the fishing industry because they were marked by falling yields and ever more restrictions, low quotas and decommissioning programmes to reduce the fleet.

It was and is easy to condemn the CFP as the cause of the contractions of the fishing industry and the pain involved but this is to blame unpleasant medicine rather than the disease. The truth was that there was too much fishing power chasing too few fish and that drastic reductions were the only way to get the two in balance. However, it has been expedient for national governments such as in the UK to blame the CFP and Brussels for the pain when they had not previously put fishery management in place themselves.

It certainly is the case that it took a long time to get the prescription right and for the medicine to work. The 1983 CFP did not have adequate mechanisms and was not sufficiently enforced. The modest 1992 revision made relatively minor changes. There was then a significant makeover with the 2003 CFP reform but it took time for the new measures to be introduced into practice and to make a difference. In a similar timescale, a new incentive for making fishery management work appeared in the form of sustainability certification by the Marine Stewardship Council (MSC).²⁴ A crescendo of criticisms of the CFP from all quarters – scientists, environmentalists and even the public, as well as from the fishing industry – led to the 2013 reform and the current CFP. This has the clear objective of fishing at the maximum sustainable yield (MSY) level – that is the largest catch that can be taken from a stock over an indefinite period without impairing its ability to reproduce itself – with a target date for achieving this; it also introduced a discard ban.²⁵ In fact by the time the 2013 reform was passed, the 2002 changes had finally begun to make an impact: in the North Atlantic the number of overfished stocks declined and more were categorised as being within safe biological limits.²⁶ Things have now improved to such an extent

that a number of fisheries have been certified as sustainable by the MSC and there is enough fish for sections of the British fleet to be very profitable while working within quotas.

The CFP can be correctly criticised for being over-centralised and bureaucratically over-heavy with its accretions of additional regulations, as well as for the length of time that elapsed before it produced positive results. But it has been dealing with a very complex situation and could only be successful when all relevant parties acted in support. For many years, ‘black’ (that is illegal) fishing excess to quota was rife among British and probably other fishers. Politicians of various countries set quotas each year higher than scientifically recommended, presumably responding to representations from their fishing industries, Britain being one of the most prominent in doing so.²⁷ They also resisted a change to longer-term planning for some stocks to replace the annual set-piece quota negotiation until shocked by the collapse of certain fisheries in the early 2000s.²⁸ For the policy to work, politicians had to put stricter enforcement in place and fishers had to co-operate with it. On the incentive side, market interest in MSC certification provided an inducement for following the rules. Finally, when politicians and fishers got sufficiently behind the CFP it did deliver. It can only continue to do so if scientific advice is followed, quotas are kept within its recommended bounds and fishing pursued accordingly.

Given these considerations, it would be constructive for fishers and politicians alike to recognise that hard measures were necessary to correct overfishing and the excess capacity associated with it, to acknowledge that developing

a workable fisheries management policy for complex fisheries was not straightforward and took time, and to cease castigating the CFP for all the difficulties experienced along the way. As well-known trawlerman Jimmy Buchan said recently when asked ‘how far Europe is to blame’: ‘Europe is not to blame for all of our problems. Some of the problems were our own problems.’²⁹

Key messages from this section

- There was no betrayal of the fishing industry when Britain entered the EEC in 1973 at a time when the country supported open seas, which benefitted its distant waters fleet, rather than an EEZ beyond 12 miles.
- The CFP relative stability principle for the allocation of quotas agreed in 1983 was reasonable and incorporated significant concessions to UK interests but it includes anomalies and its lack of a review mechanism has been a problem.
- Fishery management measures including quota restrictions and down-sizing of fishing fleets were necessitated by stock reductions resulting from overfishing, much of it related to over-capacity.
- The CFP took a long time to produce beneficial results for various reasons, including the less than total co-operation of politicians and fishers. However, it has succeeded more recently: the number of overfished stocks has greatly reduced and several fisheries have been certified as sustainable.

UK fishing quota policies

After quotas are shared between countries, it is how shares are then divided domestically that determines the position of individual fishers. This has always been governed by national governments, never from Brussels. Two factors are key to the position that has evolved in Britain. The first is that most of the UK’s share is under the management of Producer Organisations (POs). These were originally mandated under the CFP to deal with marketing functions and since 2013 have had wider responsibilities such as promoting sustainable fishing but in Britain they concentrate on dealing with quota. However, not all fishers are in a PO, the division being broadly between small-scale fishers operating from boats under 10 metres long (often called simply the ‘under-10s’) who are generally not in a PO and the fleet of larger vessels which for the most part do constitute their membership. The small pool of quota not held by POs is controlled by the relevant fisheries administration bodies in the four constituent parts of the UK (the Marine Management Organisation in England) and is available for the few larger vessels outside them plus the under-10 metre boats. The result is that small-scale fishers obtain very small amounts of quota or none at all, and a large proportion make their living from non-quota species, primarily shellfish.³⁰ More precisely, 79% of British fishers between them had access to only 2% of quota (2015 figure).³¹ Only recently has the Coastal PO has been established specifically for small-scale fishers with the aim of obtaining more quota for them but, though it is formally recognised, the Government has so far refused to

transfer any of the current quota pool to it.³²

The second factor is that the ability to access most of Britain's quota, except for the non-PO pool, has been privatised or at least semi-privatised. This took place over some years without parliamentary or public debate as a result of a series of government decisions. Quota shares initially allocated to fishers on the basis of their past catches became tradable Fixed Quota Allocations (FQAs), units that can be bought and sold. The result has been increasing concentration of quota holdings by large companies and quota trading by people who do not do any fishing themselves, the so-called 'slipper skippers', in a process which has been compared to eighteenth- and nineteenth-century land enclosures.³³ A Greenpeace investigation found that the five largest quota holders held more than a third of UK quota while as much as £7 million was made by another holder in a single year by leasing alone without the relevant vessel going to sea.³⁴

Quota ownership, or its lack, is related to the current huge differences in profitability of different sections of the British catching industry. While averaging 19% for the large-scale fleet, it is at zero level for the small-scale sector where some are fishing at a loss,³⁵ a shocking differential. It is not surprising that the latter group feel bitter about their situation but unfortunate that they have been blaming the CFP rather than the UK policies which have produced it.

A further issue is ownership of British quota by non-British concerns, sometimes called 'quota-hopping'. There are Anglo-Dutch and Anglo-Spanish sectors of the British fleet (Dutch or Spanish-owned but UK-flagged vessels fishing UK

quota) and they make up the entire membership of some UK POs.³⁶ In the 1980s the British Government tried to legislate for UK vessels to be at least 75% British-owned but was unable to maintain such a requirement in relation to EU nationals in the face of legal challenge, not because of CFP rules but under the single market principle of freedom of establishment. There was nothing to stop British fishing interests doing likewise in relation to quota of those EU countries in which licences or quota were tradable but it seems that they did not. Forced to abandon the original legislation, the UK instituted 'economic link' conditions for foreign owners such as the requirement for set percentages of landings to be in British ports and of crew to be UK residents.

There have been calls for the quota system to be reformed for two main reasons. The first is about a fairer balance for the small-scale fishers. Apart from the question of justice, the under-10 sector is seen as using lower-impact methods and thus fishing more sustainability and in addition its viability is important to coastal communities and social sustainability.³⁷ The second issue is about the fact that rights to fish are a national resource which, it is argued, should not be given away without public recompense, especially as there are considerable costs involved in the fishery management which maintains the resource, such as the provision of scientific information and enforcement.³⁸ In addition, many would question the right to fish functioning as an investment vehicle held by people not directly involved in fishing.

There have been some government moves towards changes in the quota system. A very modest amount of unused PO-held quota has been redistributed to the small-scale sector after

a legal challenge by the UK Association of Fish Producer Organisations was rejected in the High Court in 2013. For England two attempts have been made to interest small-sector fishers in having individual FQAs instead of relying on the pool, but both times the majority gave a negative response.³⁹ Since this was simply about a different approach to allocation within the very small pool, it offered more certainty but not more quota so it is not surprising that fishers were unenthusiastic. In Scotland, a consultation raised much broader possibilities, including the option of an entirely new system of collective quota management while during the interim a moratorium on FQAs being transferred to non-Scottish holders was decreed; for the small-scale sector the idea of local quota pools was mooted.⁴⁰ But the results of the Scottish consultation have not been published and no further action seems to have been taken on the issue though the moratorium remains in place. In none of these consultations was a policy proposed which offered redistribution to the quota-deprived under-10 metre boat fishers.

Given the problems that have been reviewed in this section, a radical reform is needed of the whole quota allocation system to effect redistribution on the basis of objectives yet to be established. If it were to involve a leasing or franchise system it could be specified as open only to those actually undertaking fishing activities and designed with a sliding scale so that small-scale fishers paid less. A new system could also be designed to incentivise and reward more sustainable fishing such as the use of more selective gears (nets) and avoidance of protected areas as proposed by conservation NGOs.⁴¹

A major issue would arise in any fundamental reform of the quota system, that of

property rights. Although successive governments have consistently maintained that legal ownership rests with the state, large sums have been paid for quota and the question of compensation could arise. Whether or not such claims would be deemed valid is a legal issue which cannot be discussed here. However there are options to deal with this such as giving several years notice, thus turning a holding into a time-limited franchise. Even if compensation did have to be paid it could be on a scale which took into account the extent of gains already achieved from each reclaimed holding and in the long term the costs could be offset by the income stream from a new system.

Key messages from this section

- The UK's fishing quota, expressing the right to fish, has been semi-privatised and commoditised by decisions entirely under the control of UK governments with the result that much of it has been concentrated into the hands of larger companies, some not British-owned.
- Most of the very real difficulties currently faced by the small-scale sector are due to the lack of quota held by its fishers as a result of the UK internal distribution system, not because of CFP rules.

Fishing and fisheries post-Brexit

To anticipate change for the fishing industry resulting from Brexit there has been a 2018 White Paper, *Sustainable Fisheries for Future Generations*, on which there was a public consultation, followed by publication of the Fisheries Bill 2018. The latter contains some provisions related to aquaculture but most of it deals with fishery management. These documents deal with what is intended to take place not from the point of planned exit from the EU in March 2019 but after the end of the transitional period. This is because the UK has agreed to conform to the CFP during the transition, envisaged at the time of writing (January 2019) as ending in December 2020.

In addition, the UK has given a formal two years' notice of intended withdrawal from the 1964 London Convention under which, as already explained, 12 other countries, all now EU members, had the right to fish in Britain's 6-12 nautical mile band if they had done so habitually in a reference period now far distant in time. Most commentators have regarded this as an empty gesture on the grounds that the London Convention has been subsumed into the CFP. This was not the view of FfL which agitated strongly for the Convention to be renounced lest, despite Britain leaving the EU and the CFP, historic fishing rights could still be claimed by those 12 countries. If nothing else, the decision to withdraw was encouraging to fishing interests keen for Britain to assert control over its EEZ, these considering it an 'acid test' of the Government's resolve, in the words of a House of Commons

Library blog.⁴² The withdrawal notice period will end in July 2019.

After voting for Brexit, most of those involved in the fishing industry have been looking to the Government for a reward, in particular more fishing opportunities and, for some, also an end to the CFP's quota system and/or the discard ban. There has been considerable anger in the industry at the delay to such changes due to the decision to remain with the CFP during the transition period. This was displayed in a day of port demonstrations round England and Wales in April 2018, organised by FfL, which involved about 200 vessels and attracted local public support.⁴³

Once fully out of the EU, Britain will by the terms of UNCLOS be an independent coastal state with the right to control resources in its EEZ, but that does not mean a totally free hand. UNCLOS itself lays down obligations which affect fishery policy, including conservation, co-operation with other coastal states over the management of shared stocks, giving other states access to what is surplus to the state's own fishing activity and minimising economic dislocation for those who have habitually fished in its waters.⁴⁴ The UK will be responsible for managing fisheries in the 200-mile zone for the first time. Prior to EEC entry the country had not, as we have seen, claimed a 200-mile EEZ and had no national fishery management in place, just bodies in England and Wales that overlooked inshore fisheries in the six-mile band and undertook some management functions.⁴⁵

Co-operation over shared stocks will mean, above all, with the EU. Britain will also engage directly with certain other countries such as Norway in international fora where the EU

has been representing its interests. For the fishing industries of certain EU countries there are serious implications to the UK leaving the CFP and no longer being bound by its equal access and relative stability principles. They may currently obtain as much as half of what they fish (by volume or value) in the UK EEZ and their nationals may have been fishing those same waters for generations prior to the existence of the EEZ regime.⁴⁶ Similarly, British fishers have been fishing in the waters of other EU countries and while the total volume they catch is considerably less than that taken by others in the UK zone, for certain sectors of the UK's industry, such access is very important. Although the Scottish fleet makes little use of non-UK waters, the English one traditionally fishes in the Irish and French zones (and the Norwegian one is also relevant, access having been negotiated via the EU).⁴⁷ The UNCLOS obligation to avoid disruption to such longstanding fishing patterns would apply and sharing the surplus is also relevant because there are stocks targeted by others which have never been of interest to British fishers such as those taken in the Danish industrial fishery.

Instead of relative stability, rooted in historic fishing patterns, as the basis for sharing jointly managed stocks, the UK indicated in the White Paper that it proposes to use zonal attachment principles. This is how Norway has insisted on sharing stocks with the EU. Zonal attachment means allocating according to the proportion of time each stock spends in different waters over the fish life course, taking into account where they spawn and spend juvenile periods as well as where they swim as adults and are caught. Given the large number of stocks at issue, the range of scientific information required is considerable. An appendix in the White Paper

provides a zonal attachment analysis of selected stocks only and appears merely to deal with the adult phases; this is evidently work in progress. Moreover, there is more than one way in which zonal attachment can be applied and it could be distorted by non-co-operative forms of exploitation which interfere with fish migration. The EU-Norway sharing arrangement has been assessed as very successful for six out of seven stocks involved; there was a dispute over the remaining one when fish migration routes changed.⁴⁸ The UK will be sharing many more stocks with the EU, over 100, so using zonal attachment promises to be a complicated affair.

The calculations presented in the White Paper's zonal attachment appendix indicate a much greater share for the UK than has been the case under relative stability. While they have not taken into account the full fish life stages, which might well reduce these proportions, it certainly appears that zonal attachment would raise Britain's shares considerably. But a gain for one country is a loss to others and initial indications from the EU unsurprisingly state an intention to maintain the status quo so as to avoid such losses - at least this has been the opening stance. The EU expects that a fisheries agreement such as it has with various other countries will be negotiated and that it will include access and quota rights. This is what the EU always does, namely leverage the advantages of access to its huge market to achieve various objectives in such agreements. There is an expectation on the British side that specific access rights for other countries will be agreed and that non-UK boats will be licensed accordingly as provided in the Fisheries Bill; the questions will be about the terms on which access and quota shares are agreed. These negotiations are set to

take place during the transition period. Thereafter it is proposed that annual quota setting of shared stocks, involving other countries in addition to the EU, will take place through the relevant regional organisation, the North East Atlantic Fisheries Commission.

From an environmental point of view the overwhelming priority must be to ensure that overall fishing continues at sustainable levels, which means that the total must remain within the boundaries of scientific advice. There is huge concern that without an agreement about sharing fishery stocks to guide allocations each year, the net result could be unilateral quota-setting by the two parties, resulting in levels that greatly exceed recommendations as happened in the mackerel dispute.⁴⁹ This would risk undermining the sustainability gains achieved by means of the CFP in recent years. There would also be a risk to certifications currently achieved by the relevant fisheries with impacts on certain markets.

The UK fishing industry contains sectors with very different interests; for some, close relations with the EU are relatively more important. Access to the waters of other EU countries has already been mentioned and some fishers will be looking for such access to continue. Free trade with EU countries will be equally critical for certain sectors which depend on exporting what they catch, not only to avoid tariffs but more importantly to continue frictionless movement without border hold-ups. The valuable export market in shellfish depends on the utmost freshness, often on maintaining the product alive, and delays could mean depreciation and potentially total loss. Hence for some in the fishing industry maintaining advantageous trade arrangements post-Brexit is

just as important as the issue of quota allocations. Having the right trade arrangements is also important to the salmon aquaculture sector with its exports and indeed for the wider seafood supply chain.

Nevertheless, it is a firm principle of fishing industry representatives that access to UK waters for EU vessels should be considered quite separately from trade and certainly not exchanged for trade advantages, a view that has been echoed by the Government.⁵⁰ This is questionable in principle and unlikely to be maintained in the face of EU insistence to the contrary. The industry view seems to rest on an implicit feeling that these are 'our fish' over which 'we' must have first call. The alternative view is that fish in UK waters are a national resource that should be used for wide national benefits, especially as the fishing industry is very a small part of the economy, worth less than 1% of GDP.

Modelling by the New Economics Foundation has shown sharply different outcomes for different fishing sectors in a range of scenarios. Only one of them, a highly unlikely 'fishing first Brexit' in which the industry was prioritised, showed benefits across the whole fleet. With the rest - hard, soft, no deal - some sectors would actually be worse off and small-scale non-quota boats likely to be the hardest hit.⁵¹ Another modelling exercise found that there would be an overall gain from quota reallocation but negative impacts on sectors targeting non-quota species and also for the aquaculture industry.⁵² A separate study of Wales, where the majority of fishing is small-scale and concentrates on shellfish, concluded that most boats, fishers and ports would probably experience net losses.⁵³ These studies assume the

continuation of present quota distribution policies within Britain.

Unfortunately, the Government's intention, indicated in the White Paper, is indeed to carry on with the present allocation system for existing quota. But it does state that for additional quota, expected as a result of applying zonal attachment, there could be different approaches. For England (much to do with fishing being devolved, each fisheries administration will be establishing its own policies) it suggested a reserve to be held by the Marine Management Organisation and allocated on different criteria compared to the current arrangement. In the consultation exercise the majority of responses favoured change to the FQA-quota distribution system so that the small-scale fleet got more.⁵⁴ However, the Fisheries Bill indicates no such change. During the initial stage of its parliamentary passage, this gap has drawn particular criticism and intentions to propose amendments have been indicated.⁵⁵ Whether any reform of the current quota allocation system can be achieved during the passage of the Bill remains to be seen. On a somewhat positive note, questioning during the committee stage of the Bill suggested an intention to allocate more to the small-scale sector and that thought has been given to possible change in the quota system.⁵⁶

Nothing specific was stated in the White Paper about the PO system which seems set to continue unchanged. In relation to foreign ownership of UK vessels and quota the White Paper proposed a review of the economic link conditions to ensure various benefits, the implication being that such ownership is expected to continue without amendment.⁵⁷ FfL has proposed that UK-flagged vessels should have at least 60% British

ownership⁵⁸ but no government move in this direction has been indicated.

For additional quota, the Government is considering auctioning fishing rights on an annual basis. Powers for the Secretary of State to do this in relation to the English share are in the Fisheries Bill (again, the other fisheries administrations will be establishing their own policies). Auctioning would improve on the current arrangements insofar as conditions such as sustainable management could be set and there would be some public recompense for the valuable right to fish and the costs of fishery management, but be of zero benefit for the current quota-poor who do not have the resources to compete financially. The Fisheries Bill also contains powers for the Marine Management Organisation to charge for a range of functions; this only applies to England.

On the issue of contribution to its costs by those benefitting from fishery management there are other options which have been considered in a review directed to Scottish policy. While stating that auctions could appropriately be used for additional pelagic quota (covering species such as herring and mackerel) the authors recommend more generally a landings tax as well as phasing out fishing vessels' exemption from fuel tax.⁵⁹ They also suggest that an additional charge could be added as resource rent – a payment for using a public resource, namely the right to fish. These are options worth consideration by the Government for general application.

There are certainly some positive aspects to the Government's plans for fisheries expressed in the White Paper and the Fisheries Bill, particularly an emphasis on managing for sustainability. As well as

the initial sustainability objective in the Bill, others specify the precautionary approach, protection of the marine ecosystem and management based on scientific evidence (these all replace similar CFP objectives). However, they are not phrased as binding objectives and it is disappointing that the Bill does not follow the current CFP in having a specific target date for achieving MSY for all stocks (which is by 2020).

The sustainability objective is broadly expressed in clause 1 to include not only environmental conservation but also general social and economic benefits and contribution to food supply. The last of these is mentioned a second time in the clause dealing with the 'fisheries statements' of policy that will be required in the new system; these are to include the development of aquaculture for food supply and security as well as its role in employment. In the same clause the reference to 'socio-economic factors' in relation to coastal fisheries seems to be an acknowledgement of the need for action on this front. There are no further references either to food or to coastal fisheries in the Bill and no concrete measures proposed in relation to either of them; these may come in the fisheries statements, the first of which are to be completed by the end of 2020. The Bill bestows grant-making powers on the Secretary of State which will enable a substitute to be established for the funding provided by the CFP, currently in the form of the European Maritime and Fisheries Fund (EMFF); whether the scale of financial support will be equivalent is not indicated.

While there is an intention to continue a discard ban, the objective in the Bill contains the word 'gradually', suggesting the likelihood of rowing back from the CFP timetable and more flexibility

over quota. The Bill provides powers to implement a voluntary discard-prevention charging scheme that would mean fines being levied for landings excess to the fisher's quota. The motivation for registering under such a scheme and landing catches would be to avoid illegal fishing and the risk of prosecution as a way of dealing with the 'choke problem': this occurs in mixed fisheries when non-target species for which the fisher has no (remaining) quota are unintentionally caught, which could mean that no further fishing would be allowed in the time period concerned. A charge would wipe the slate clean, at a cost, and the policy is intended to provide incentives to fish in ways that minimise the need for such out-of-quota landings.

Representing some in the fishing industry, the FfL has argued strongly for the system of allocation of fishing rights by quota to be replaced in demersal fisheries (those for bottom-dwelling species including cod, haddock and flatfish) by effort management in the form of rationed days at sea, inputs rather than the outputs represented by quotas, but this is opposed by others.⁶⁰ The White Paper made it clear that the system of setting Total Allowable Catches (quotas) would be central to future UK fishery management. There is a general consensus that such allocation controls are the most appropriate basis for fishery management, as recently agreed by speakers at the Conference on Best Practice in World Fisheries: Lessons for Brexit.⁶¹ Nevertheless, the White Paper proposes a trial of effort management to be held under strictly controlled conditions, which seems to be a concession to the FfL view. The Fisheries Bill provides powers for the Secretary of State to determine the overall level of fishing opportunities in terms either of fish that may be caught or days at sea, displaying apparent parity for both options;

it is to be hoped that quotas will be the main method as days at sea in practice have generally led to overfishing though they can be used as an adjunct.⁶²

Outside the Fisheries Bill, DEFRA's recent proposal to oblige smaller boats fishing in English waters to have Inshore Vessel Monitoring Systems installed is a potentially useful addition to measures that support sustainability as has been required for larger vessels since 2013. The consultation document indicates that funding for such equipment will be available from the CFP's EMFF within the projected timetable.⁶³

The proposed future fishery management arrangements pay an unacknowledged tribute to the CFP as a model with the adoption of its objectives, key management mechanisms and policies plus dedicated funding for whole of the seafood sector. Its technical conservation regulations have been incorporated into UK law in the European Union (Withdrawal) Act 2018 though this does not mean that they will not be changed in the future. It will be possible to improve on the CFP by making a fresh start and because decision-making will be straightforward compared to the need to seek agreement between the large number of member states. Nevertheless the Fisheries Bill indicates that the current CFP provides a sound basis for sustainable management.

Key messages from this section

- The Government has set out its intentions for managing fisheries post-Brexit in a White Paper and the Fisheries Bill 2018. They involve renunciation of the sharing aspects of the CFP, namely equal access and relative stability, but adoption of its key features including its objectives, main policies such as quotas and the discard ban, and a dedicated fund.
- Fishing in the UK's EEZ will involve sharing stocks with the EU and others on terms still to be negotiated, but proposed use of zonal attachment as the basis instead of relative stability would give Britain significantly more quota. However, it is vital that quota shares are agreed and within scientific advice, not declared unilaterally, to prevent overfishing.
- Modelling shows that the expected increase will benefit certain sectors of the UK's fishing industry but for others will be cancelled out by expected trade problems and could even result in losses, particularly for the quota-poor inshore fleet.
- Despite this and the difficulties being experienced by small-scale fishers due to lack of quota, the Government plans to keep the current allocation system including the semi-privatised FQAs.

Brexit, the seafood industry and food supply

Contributing to food supply was noted as one aspect of the objectives set out in the Fisheries Bill but what is the relationship between the fishing industry and the domestic food system? The fishing industry was certainly oriented to the domestic market in the past but currently much of its output is for sale overseas. Conversely, a great part of the seafood (fish and shellfish) which is needed for domestic consumption comes from elsewhere. From the viewpoint of the whole of the seafood supply chain, Brexit therefore raises a different set of issues from those concerned with fishing alone.

But starting with the contribution that British fishing does make to supply, to what extent might Brexit increase it? A larger share of UK quota could do so if the species involved were a good fit with domestic consumption patterns. Related to the well-established reluctance of many people to handle fish and the consequent desire for someone else to cook it, these have resulted in preference for a favourite national dish, fish and chips, mainly based on cod and haddock. How far these two will figure in the new patterns of quota sharing will emerge from future negotiations. There are some stocks of these species included in the zonal attachment appendix of the White Paper, as are others such as sole and whiting which, though eaten less often, do also have a domestic market, all of which may well be targets. However, the major part of additional quota could be species for which there is little domestic use and which would

be exported.⁶⁴ So it does not seem that additional quota will make a major difference to overall domestic supply.

Another way of increasing the proportion of domestic supply from UK boats would be consumers eating more of what we fish. The fleet catches a lot of herring and mackerel and higher consumption of these oily fish would be particularly beneficial for health. There are many other species of shellfish and fish from British waters, currently nearly all exported, for which local consumption might increase in time. Longstanding efforts to persuade British consumers to embrace a wider range of seafood will continue to have a gradual impact but are not related to Brexit. Finally there is UK aquaculture which supplies mainly salmon, trout, mussels and oysters for UK consumption. Of these, salmon has by far the largest volume of production, much of which is exported. There is scope for increasing UK aquaculture and plans in place to expand salmon production with exports in mind, but no indication so far that Brexit itself will motivate growth.

The conclusion is that a high proportion of the supply for domestic consumption will continue to come from imports. As well as making up the deficit of domestic catches of cod and haddock in relation to demand, major imports include tuna, warmwater and coldwater prawns and salmon (despite domestic production of the latter). Most of these imports come from outside the EU and are currently purchased with the benefit of tariff concession achieved in various EU trade agreements with other countries. The UK will be able to negotiate replacements but with a smaller market to offer may in some cases obtain less advantageous arrangements and such trade agreements will

take time to put in place. For imports as much as exports, reducing non-tariff barriers is a key issue to avoid loss of quality of these perishable products.

Trade is one of the main factors that will affect prices, both tariffs and non-tariff factors imposing costs on imports. Modelling by the UK Trade Policy Observatory quoted in a House of Lords Committee report⁶⁵ indicated rises in fish import prices from tariffs and from other barriers of 1.5% and 1.8% respectively but also that the tariff costs for meat would be much higher. From a different viewpoint, modelling looking not at trade but at the possible effects of a hard Brexit in which the UK took an exclusive approach to fishing in its waters, predicted more fish supplied for domestic use and lower prices.⁶⁶ As fish purchasing is price sensitive, especially in relation to alternative proteins, the net result might be an increase of fish consumption in relation to meat which would be positive from a health perspective. However, the interactions of price and demand factors, which may also be affected by currency changes, are difficult to predict.

Trade is one of the three challenge areas emphasised by the UK Seafood Industry Alliance, a grouping formed to represent these wider interests in dealing with Brexit.⁶⁷ According to its manifesto, the seafood processors and traders it represents employ more people than the fishing industry and have a collective turnover five times the value of UK fish landings.⁶⁸ These facts emphasise the need for the interests of the wider seafood system in free or at least easy trade arrangements to receive as much priority as do fishing issues.

The second challenge raised by the Alliance is labour since seafood processing, as with the

rest of the food system, is heavily reliant on non-UK workers. According to a recent survey, 42% of the people employed by seafood processing companies came from other EU countries.⁶⁹ The work is considered to be highly skilled, needing a facility with knives likened to that required for surgery, so those involved are not easily replaced if deterred by the planned new immigration regime or the fall in the value of sterling.⁷⁰ The automation alternative raises various technical problems over fish handling and where available may involve greater costs than businesses can recoup by higher prices.

The third challenge identified by the Seafood Alliance is maintaining the standards that have been achieved by means of EU regulation. This means ensuring that food safety standards remain high and fully equivalent to those within the EU and that sustainably produced seafood can be sourced. In addition to extensive general food hygiene legislation there are specific measures dealing with seafood. They include hygiene conditions both in land premises and in fishing vessels, with extra requirements for factory ships which carry out freezing at sea, and there are special rules to reduce risks that might affect molluscs (mussels, oysters). Labelling and traceability rules are also part of a system to ensure authenticity, legally caught fish and information for consumers. Failure to continue the systems which have achieved both high standards and sustainable fish would in the words of the Alliance 'risk potentially irreparable damage' to both consumer confidence and the environment.⁷¹ This body of legislation will be adopted into British law by means of the European Union (Withdrawal) Act 2018 and it is vital that none of it is weakened after Brexit has taken place.

Key messages from this section

- British fishing makes only a modest contribution to domestic food supply, which relies on imports.
- The wider seafood sector has a high reliance on trade for both exports and imports, which needs to be given at least equal priority to the needs of the fishing industry in the negotiations with the EU.
- The seafood industry wants the EU-UK food hygiene, labelling and traceability regulatory system to be maintained.

No deal?

The sections in this report discussing post-Brexit issues have been written with the assumption that there will be an orderly process to making the massive changes involved. This will not be the case if no withdrawal agreement between the UK and EU is approved before the exit day in March 2019 (assuming this date is unchanged). In that case there will not be a transition period and the situation for fishing and trade will be transformed without the preparation period currently envisaged. The Department for Environment, Food and Rural Affairs (DEFRA) has issued guidance on the implications of no deal for commercial fishing and it is notable that whereas the October 2018 version states that leaving the EU without an agreement is unlikely, this sentence is missing from the December update.⁷²

Alternative legislation to substitute for the CFP would need to be in place immediately to ensure that fishery management continues. It is not clear whether the Fisheries Bill is expected to have gone through the parliamentary process by Brexit day. Even if it has become law, there will have been no time to undertake the process indicated in the Bill whereby fisheries statements of policy should be produced in advance of and to guide decision-making. Equally relevant is the lack of agreement with EU and other countries on the management of shared stocks, as processes to achieve these are due to start after Brexit.

Quotas for 2019 have been settled within the CFP in the usual December negotiation but would not be binding on the UK once out of the EU

without the provisions of the transition period. In accordance with the CFP and on the presumption of a withdrawal agreement, they will have assumed the continuation of UK boats fishing in the waters of other EU countries and vice versa. The DEFRA guidance notes that in the event of no agreement, automatic access to each other's waters will no longer apply. It states that the marine management bodies in the four administrations will notify allocations to quota holders in March 2019 but not on what basis, that is whether or not the CFP quota decision for 2019 will be adopted and hence where fishing will be permitted. To avoid a chaotic situation, an interim arrangement between the UK and EU will be needed to maintain the status quo for the year.

The DEFRA guidance also covers trade in fishery products, indicating the new paperwork that will be needed for both exports and imports. On the general issue of trade it has been widely predicted that in the no deal scenario there will be considerable border delays. British shellfish exporters would be particularly vulnerable to such hold-ups as already noted and no deal would be particularly disastrous for them.⁷³ It is unclear how seafood imports, which are so vital to domestic supply, will be affected.

Conclusions

Fishermen brought a deep sense of grievance against the EU to the Leave campaign. However, when the history of the fishing industry over the last 45 years is examined, the story that a thriving industry was ruined by the CFP unravels. The reality was that there was a severe problem of overfishing,

that catches and the capacity of British and other European fishing fleets had to be reduced and that the UK's distant waters fleet had to cease due to Iceland establishing its 200-mile EEZ. By the same token, leaving the CFP will not by itself solve current problems in the fishing industry. Those problems, set out in this paper, can be encapsulated by the contrast between the sentiment expressed by one fisher interviewed recently that fishing is a 'dying industry' and the wealth of the largest fish quota-holders who are on the Sunday Times Rich List.⁷⁴ Taken as a whole the industry is doing well, the value of its landings having risen in real terms by 17% between 2000 and 2017;⁷⁵ it is not in fact a declining industry but one marked by huge disparities.

More UK quota can assist but will not by itself change the situation of fishers in the small-scale sector without reform of the PO and FQA system and a fairer distribution. Many voices have previously urged such reform and a better deal for small-scale fishers and have been largely disregarded by successive governments. Brexit offers a unique opportunity to get to grips with this fundamental issue, not because government initiatives on domestic allocation of quota require the UK to be out of the EU but because when so much is being changed a total reset of domestic quota policies can be politically argued as necessary to put the industry on a sound footing. Additional quota could, however, be useful in easing transition to a new system.

While fishers' anti-CFP feelings have been a factor in Brexit support, leaving Europe will not by itself improve the situation of many of them. Other sections of the seafood industry, not equally vocal, stand to be deeply and negatively affected by

exit from the EU. They need attention to the food, labour and trade dimensions where there are high risks of negative outcomes.

The Recommendations listed at the beginning of this paper have been drawn up to deal with this range of issues. If they are not followed, we will be left with an extractive industry that is dominated by large companies, primarily oriented to exports and making little contribution to domestic food supply or to the social sustainability of coastal communities. And if the quota system is not reformed the justified anger of the majority of fishers will finally fall on what has really been the guilty party, not the EU but the British Government.

Acknowledgement

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- 41 See www.sustainweb.org/sustainablefishcity/policy for this argument. In fact article 17 of the current CFP regulation states that fishing opportunities, quota, should be allocated, among other criteria, on the basis of such environmental aims and specifically mentions incentives for 'selective fishing gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage' but this has not been put into operation by the UK. In 2015 Greenpeace brought a judicial review against DEFRA for not following environmental and social criteria in quota allocation but the judgement (in 2016) did not support its case on the grounds of Member States' discretion on the weight to be given to different criteria. The Fisheries Bill appears to adopt article 17 with certain amendments (clause 20) but NGOs argue that the criteria should exclude historic catch levels in favour of environmental, social and local economic criteria.
- 42 David Hirst, 'Brexit, the London Convention and coastal fishing rights', 24 March 2017, <https://commonslibrary.parliament.uk/brexit/policy/brexit-the-london-convention-and-coastal-fishing-rights/>, accessed 18 November 2016.
- 43 The port demonstration day is described in Tim Oliver, 'Fishermen ready for Brexit fight', 16 April 2018, *Fishing News*, <http://fishingnews.co.uk>, accessed on 29 November 2018. The NFFO posted 'Ten reasons why fishing should not be part of a transitional deal with the EU' on its website <http://nffo.org.uk> on 5 February 2018, accessed 23 October 2018.
- 44 Kenyon W 2017, *Implications of Leaving the EU: Fisheries*, The Scottish Parliament, Edinburgh, SPICe Briefing.
- 45 In England and Wales inshore fisheries were overseen by Sea Fisheries Committees established in the nineteenth century and replaced for England by Inshore Fisheries and Conservation Authorities in the Marine and Coastal Access Act 2009. In Scotland it was the Scottish Department and subsequently the devolved Scottish institutions until Inshore Fisheries Groups were set up 2013 to be replaced by Regional Inshore Fisheries Groups in 2016. In Wales and Northern Ireland inshore management lies with the relevant department.
- 46 Le Gallic et al op cit (note 36 above).
- 47 A Lebrecht, 2016, 'UK fishermen would be worse off outside the EU', *In Facts*, 18 May 2016, <https://infacts.org/uk-fishermen-worse-off-outside-eu/>, accessed 3 September 2018.
- 48 Hannesson R 2004, *Incentive Compatibility of Fish-Sharing Agreements*, Working Paper No 15/04, Institute for Research in Economics and Business Administration, Bergen.
- 49 The dispute which started in 2009 pitted the EU and Norway against the Faroes and Iceland. When no agreement was reached, each party unilaterally set its own share meaning that the total was excessive, there was overfishing and the MSC suspended certifications. Subsequently an agreement was reached with the Faroes but to date there is not one with Iceland over mackerel. Fortunately the stock has proved resilient to these events but it would be very rash to think that this would be the case with others.
- 50 The statement that market access is separate from fishing access is in the press release issued by DEFRA on the publication of the Fisheries Bill - see note 9 above.
- 51 Carpenter 2017 op cit (note 35 above).
- 52 ABPmer, InterAnalysis, & Vivid Economics 2018, *Seafood Trade Modelling Research Project: Assessing the Impact of Alternative Fish Trade Agreements Post EU-Exit*, Marine Scotland, Edinburgh.
- 53 Carpenter G, Williams C, & Walmsley S 2018, *Implications of Brexit for Fishing Opportunities in Wales*, Public Policy Institute for Wales, Cardiff, New Economics Foundation and ABPmer
- 54 DEFRA 2018, *Sustainable Fisheries for Future Generations: Summary of Consultation Responses and Government Response*, Department for Environment, Food and Rural Affairs, London.
- 55 Concerns about the lack of quota for the small-scale sector and the intention of the Opposition to table amendments on this and other aspects of the Fisheries Bill were stated during the Second Reading debate on 21 November 2018, available in <https://hansard.parliament.uk/commons/2018-11-21/debates/1D7DDF1B-67AF-4C87-8AE2-D5087Do89308/FisheriesBill>.
- 56 See questioning by the Minister, George Eustice, and the replies by Tom Appleby, an academic lawyer who represented the Blue Marine Foundation on 4 December 2018 and by Griffin Carpenter from the New Economics Foundation on 6 December 2018 in [https://hansard.parliament.uk/commons/2018-12-04/debates/8891ea21-2491-43f8-9113-4a26413414af/FisheriesBill\(SecondSitting\)](https://hansard.parliament.uk/commons/2018-12-04/debates/8891ea21-2491-43f8-9113-4a26413414af/FisheriesBill(SecondSitting)) and [https://hansard.parliament.uk/commons/2018-12-06/debates/74b5fc69-eca8-49e9-977f-ae8d8e266be4/FisheriesBill\(FourthSitting\)](https://hansard.parliament.uk/commons/2018-12-06/debates/74b5fc69-eca8-49e9-977f-ae8d8e266be4/FisheriesBill(FourthSitting)). The Fisheries Bill is an enabling piece of legislation so some of the discussion was about whether additional powers to do certain things already exist and so do not need to be added.
- 57 The current economic link conditions are: at least 50% of EU quota landings to be in British ports; at least 50% of crew to be normally resident in UK coastal areas; at least 50% of operating expenditure net of wages to be spent in British coastal areas; otherwise there should be quota donation to the UK under-10 metre fleet. However a 2009 DEFRA review concluded that actual economic contribution is low in comparison to relevant vessel turnover.
- 58 *Fishing for Leave 2017*, The Brexit Textbook on Fisheries, Fishing for Leave, Glasgow.
- 59 Carpenter G & Miller C 2018, *Fisheries Management Costs: How the Expense of Scottish Fisheries Management Can Be Sustainably Funded*, Sustainable Inshore Fisheries Trust and New Economics Foundation, Edinburgh & London.
- 60 The NFFO disagreement on days at sea substituting for quota is set out in a blog, 'Are days the answer?', 3 April 2017, <http://nffo.org.uk/news/are-days-the-answer.html>, accessed 23 October

2018. The FfL proposal is for FQA units to be converted into 'flexible catch composition percentages' to preserve their value.

61 Hawkins A & Best Practice in World Fisheries Steering Committee 2017, Best Practice in World Fisheries: Lessons for Brexit, Blue Marine Foundation & Fishmongers' Company, Conference held in Fishmongers' Hall, London 21 November 2017.

62 FfL approvingly referred to the effort based system used in the Faroes in its 2017 publication (op cit note 58 above). However at the end of that year the Faroes changed to a quota system because of sustainability concerns; see McAngus C, Huggins C, van der Zwet A, & Connolly J 2018, Governing UK Fisheries after Brexit: Lessons from Iceland, Norway and the Faroe Islands, University of the West of Scotland and The UK in a Changing Europe.

63 DEFRA, 2018, Consultation on the Introduction of Inshore Vessel Monitoring Systems for all Licensed British Fishing Boats under 12 metres in Length Operating in English Waters, <https://consult.defra.gov.uk/marine-management/introduction-of-inshore-vessel-monitoring-systems/>, accessed 10 January 2019. This is proposed to apply to fishing vessels from any part of the UK which fish in English waters. Management in relation to other British waters is devolved.

64 Bryce Beukers-Stewart (York University) is quoted as saying that in a hard Brexit in which the UK was to maintain exclusive access for its own fishers, the increase would consist of species such as blue whiting, herring and sand eels for which there is no domestic market in Damian Carrington, 'Hard Brexit would mean more and cheaper British fish -- but there's a catch', The Guardian, 24 April 2018.

65 House of Lords European Union Committee 2018, Brexit: Food Prices and Availability, 14th Report of Session 2017-19, HL Paper 129, House of Lords, London.

66 Bartelings H & Kristkova ZS 2018, Impact of Hard Brexit on European Fisheries, Wageningen University and Research, Wageningen.

67 The UK Seafood Industry Alliance was formed jointly by the Food and Drink Federation and the Provision Trade Federation in 2016.

68 UK Seafood Industry Alliance 2017, Putting Fish on the Menu for a Healthy and Sustainable Future, Manifesto 2017, Provisions Trade Federation and Food & Drink Federation, www.fdf.org.uk.

69 Curtis H, Moran Quintana M, & Milliken K 2017, UK Seafood Processing Sector Labour, Sea Fish Industry Authority, Edinburgh.

70 Paul Trebilcock, Chief Executive of the Cornish PO, emphasised the knife skills of those working in fish processing plants, comparing them to those of surgeons, in the BBC Radio 4 Farming This Week programme on 3 November 2018.

71 UK Seafood Industry Alliance op cit p6 (note 68 above).

72 DEFRA, 2018, Commercial Fishing if There's No Brexit Deal, Department for Environment, Food and Rural Affairs, London, 15 October and 19 December versions.

73 Griffin Carpenter, 'Rees-Mogg's hard Brexit won't do anything for fishing communities', The Guardian, 21 March 2018 and 'Brexit shellfish threat: no deal Brexit shellfish warning', Fishing News 30 July 2018 (no author).

74 The 'dying industry' quote was taken in Whitby and reported in Tom White and Libby Brooks, 'View from the ports', The Observer 25 November 2018, the information about the wealth of large quota-holders is from C Dowler op cit (note 34 above).

75 Ares E & White C 2018, Fisheries Management in the UK, Briefing Paper No 8457, House of Commons Library, London.

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