



BRIEFING PAPER

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Brexit: What next for UK fisheries?

By David Hirst

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Summary

In 2015, fishing contributed £604 million to UK GDP and employed around 12,000 fishers and, as of 2016, the fish processing industry supported around 18,000 jobs across 376 fish processing sites.

The implications of Brexit for fisheries are highly uncertain. The implications will depend on future negotiations with the EU and future UK Government policy. The Government announced its intention to introduce a Fisheries Bill in the [2017 Queen's Speech](#), which will: "Enable the UK to control access to its waters and set UK fishing quotas once it has left the EU."

Possible implications, based on the views of different stakeholders and evidence from existing non-EU European countries, may include:

- The UK obtaining exclusive national fishing rights up to 200 miles from the coast. However, the UK may trade-off some of these rights in order to obtain access to the EU's sea area or access to the EU market for fisheries products;
- Impacts on the UK's ability to negotiate favourable fish quotas for UK fishers with the EU. It is not possible to say whether the UK will be more or less able to obtain satisfactory quotas for fishers;
- The need for a new mechanism to enable the UK to negotiate and agree annual fishing quotas with the EU and other countries;
- The introduction of a UK fisheries management and enforcement system. This in many respects may mirror the existing arrangements for managing fisheries, albeit with additional resources required;
- Restrictions on EU market access for fishery products (depending on the outcome of negotiations) and less influence in discussions on determining EU market rules for fish;
- Less certainty around public funding of support for fishing communities or environmental sustainability; and
- Issues related to possible changes to the protection of the marine environment.

1. The Common Fisheries Policy

In 2015, fishing contributed £604 million to UK GDP and employed around 12,000 fishers.¹ In addition, as of 2016, the fish processing industry supports around 18,000 jobs across 376 fish processing sites.²

Fisheries in the UK and EU are managed under the Common Fisheries Policy (CFP). The policy aims to ensure that fishing is “environmentally, economically and socially sustainable” and to allow fair competition between fishers.³

Under the CFP, every year, the European Commission proposes a Total Allowable Catch (TAC) for each commercial species for each area within the EU 200-mile limit. These TACs are then shared between EU countries in the form of national quotas. The TACs are agreed by the Council of Ministers at the Agriculture and Fisheries Council at the end of each year.

The CFP has recently undergone several key reforms, including: a phased ban on discarding fish; a legally binding commitment to fishing at sustainable levels; and increasingly decentralised decision making. These measures are being phased in up to 2020.

The CFP’s main policy areas include:

- 1 **Fisheries management:** controlling how fish can be taken with the goal of ensuring that fish stocks are healthy enough that the maximum sustainable amount of fish possible can be caught. The measures include technical regulations on what kinds of gear can be used and quotas for the amount of fish landed.
- 2 **Funding:** providing funding to fishers and fishing communities for a number of purposes including supporting sustainable fishing and helping coastal communities to diversify their economies. The UK was allocated €243.1 million in fisheries funding from 2014-2020.⁴
- 3 **Market organisation:** putting into place measures such as common marketing standards, common consumer information rules and competition rules, and provides market intelligence via the European Market Observatory for Fishery and Aquaculture Products.
- 4 **Import tariffs:** allowing for import tariff reductions for certain fish and fish products from outside the EU to help increase supply at times when EU supply cannot meet the demand of fish processors.

This briefing describe the views of different stakeholders about the implications of Brexit for UK fisheries. It also seeks to draw on

The basic principles of the Common Fisheries Policy were agreed in 1970 prior to UK accession to the EU. The policy was intended to address the mobile nature of fish, to protect local fishing grounds, and to share resources within adjacent seas fairly.

¹ [UK Sea Fisheries Statistics](#), Commons Briefing Paper 2788, 30 November 2016

² Seafish, [Seafood Processing Industry Report 2016](#), 2017

³ “[The Common Fisheries Policy \(CFP\)](#)”, European Commission, 29 May 2015

⁴ “[The Common Fisheries Policy \(CFP\)](#)”, European Commission, 29 May 2015

evidence from non-EU European countries, such as Norway, to give an indication of possible outcomes for the UK.

It is important to note that the outcomes will in large part depend on the nature of the UK's withdrawal and the negotiations that will take place.

2. Fisheries Bill 2017

On 21 June 2017, the Government announced its intention to introduce a Fisheries Bill in the Queen's Speech.⁵ The background briefing to the speech stated that the purpose of the Bill is to: "Enable the UK to control access to its waters and set UK fishing quotas once it has left the EU."⁶ The Government stated that the Bill will extend to the entirety of the UK because "international matters are not devolved". It also explained that it would "consult widely with the devolved administrations on the appropriate extent of any legislation."⁷

Following the Queen's Speech the Scottish Government sought reassurances that repatriated EU competences in devolved areas would return to the Scottish Parliament. Commenting on the Queen's Speech, the Scottish Government's Minister for UK Negotiations on Scotland's Place in Europe, Mr Russell said:

"The Scottish Government expects to be closely involved with the UK Government on proposed legislation that affects Scotland and it is time for far more transparency and openness from the UK Government and a joint co-operative approach.
[...]

"The Scottish Government has been consistently clear that repatriated EU competences must return to the Scottish Parliament in areas where it is wholly or partly responsible, such as agriculture, fisheries environmental policy and justice."⁸

⁵ [Queen's Speech 2017](#), 21 June 2017

⁶ HMG, [The Queen's Speech: Background briefing](#), 21 June 2017

⁷ HMG, [The Queen's Speech: Background briefing](#), 21 June 2017

⁸ [Queen's Speech – more Brexit clarity needed](#), Scottish Government, 21 June 2017

3. Fisheries management

Brexit will have a number of implications for fisheries management. While it is possible to identify some possible broad implications, the specific outcomes are highly uncertain.

The following issues are likely to be important during and after the Brexit negotiations:

- Control over a greater area of sea;
- Renegotiating the UK's share of fish quotas;
- The power to walk away from negotiations;
- The degree to which the UK could exclude non-UK vessels;
- Cooperation with the EU and other countries on setting quotas;
- UK influence on the management of stocks shared with the EU; and
- A new UK fisheries policy and management system.

These points are elaborated on below.

3.1 Control over a greater area of sea

Norway and Iceland are responsible for fishing in their Exclusive Economic Zone (EEZ) up to 200 nautical miles from the coast. This is the norm in international law as defined by the [UN Convention on the Law of the Sea](#).

This contrasts with the situation in the EU, where Member States share access to fishing grounds from 12-200 miles from the coast (see box 1).

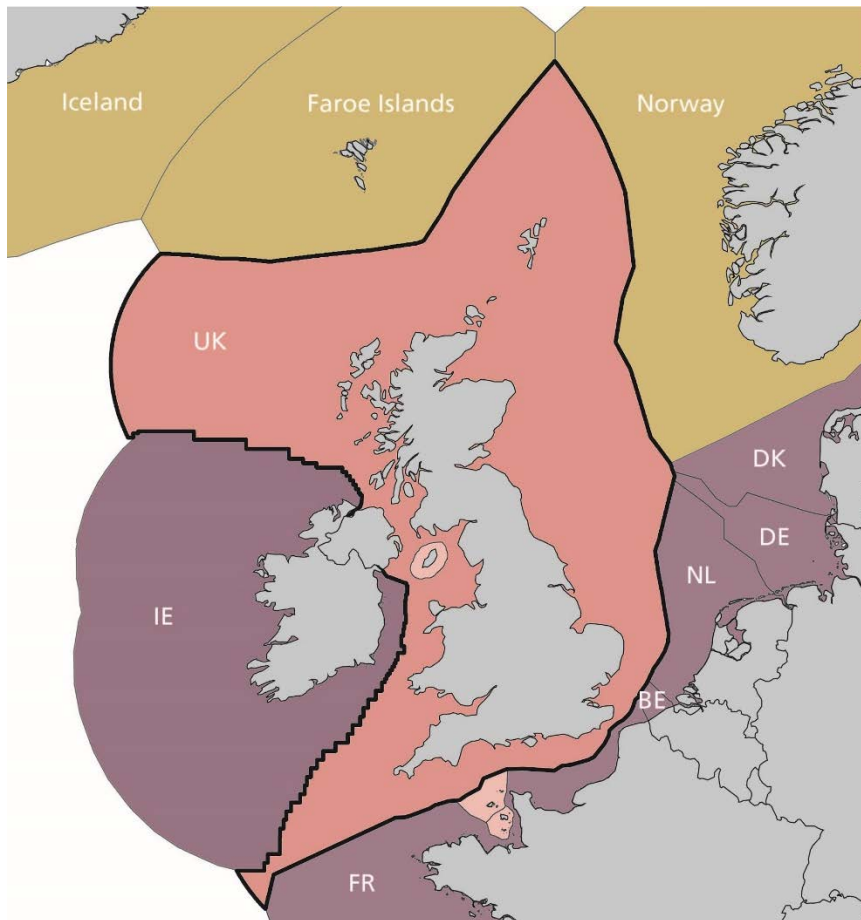
Following Brexit the UK could take full responsibility for fisheries in the UK's EEZ (see map below).⁹ However, this does not necessarily mean that the UK will as a result have greater access to fish. This point is elaborated on below.

In addition, there could be legal arguments under international law about the extent to which the current fishing rights of foreign fishers could be abolished.¹⁰ For instance, Article 62 of the 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."

⁹ 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."

¹⁰ "[Traditional fishing rights: analysis of state practice](#)", Polite Dyspriani, Published by Division for ocean affairs and the law of the sea office of legal affairs, the United Nations, 2011

Map of UK Exclusive Economic Zone (EEZ)



Source: House of Lords (2016)¹¹

Box 1: Why does the UK not control fisheries out to 200 miles from the UK coast?

When the UK joined the European Economic Community (EEC) in 1973 the Members agreed to exclusive national fishing rights to 12 nautical miles, unless another Member State could prove historic fishing activity between 6 to 12 miles.¹² This was broadly in line with international law at the time. As a result, UK fishing fleets have access to some fishing grounds within 6-12 miles of four other Member States, and five Member States have access to fishing grounds within 6-12 miles of the UK.

The seas further than 12 miles from the coast were considered high seas, and not under the control of anyone. However, this changed in the late 1970s when it was agreed under international law that countries had rights over the sea up to 200 nautical miles from their shores.¹³

When these new Exclusive Economic Zones (EEZ) were introduced, EU competence for fisheries was extended to 200 miles off the coast. The principle of equal access was applied to this new area.

¹¹ Lords EU Energy and Environment Sub-Committee, [Brexit: fisheries](#), 8th Report of Session 2016–17, **HL Paper 78**, 17 December 2016

¹² House of Lords European Union Committee, [The Progress of the Common Fisheries Policy](#), 22 July 2008, HL 146-i.

¹³ House of Lords European Union Committee, [The Progress of the Common Fisheries Policy](#), 22 July 2008, HL 146-i.

3.2 Renegotiating the UK's share of fish quotas

George Eustice MP, the Minister with responsibility for fisheries and who campaigned for Brexit, stated that “outside the EU [we would be] in the strongest possible position to re-open the issue of “relative stability” and argue for a fairer share of quota allocations in many fish stocks” (see box 2).¹⁴ He said that this could be conducted on the basis of an “assessment of spawning grounds and this science would help inform a new settlement”.¹⁵

In a debate on the Lords Energy and Environment Sub-Committee report on fisheries and Brexit on 16 January 2017, [Lord Teverson, the Committee Chair, stated](#) that the committee’s most important recommendation was that “quotas and management be based as much as possible on scientific evidence, rather than on political decisions.” He added that

In the past the CFP has been based too much on politics, rather than scientific evidence. Scientific evidence on fisheries, as on all marine areas, is not perfect, but we should remain a member of ICES, we should use that evidence and we should continue to move towards sustainable seas.¹⁶

Before the referendum, Mr Eustice said that Brexit would enable the UK Government to represent itself at quota negotiations. He went on to say that this would mean that UK interests could not be bargained with in order to “give advantages to other EU countries”.¹⁷

As an example of an agreement between a non-EU country and the EU, the current agreement between the EU and Norway provides that quotas are shared on the basis of ‘zonal attachment’. This is the extent to which a stock is distributed in an area over time.

However, the Marine Environmental Research Institute stated that changes in “fish distribution, abundance and migration patterns can be caused by changing environmental conditions and increases or decreases in spawning stock biomass (among other factors)”.¹⁸ This fact can “cause problems for agreements based on zonal attachment” as disagreements can occur over the sharing of fish stocks as they change.¹⁹

Others have questioned the extent to which the UK will be in a position to renegotiate greater quotas outside of the EU.²⁰ Elizabeth Truss MP, who was Secretary of State for Environment at the time and who campaigned to remain, questioned the impact of losing “the collective bargaining power of the EU”. She believed the UK “would

¹⁴ [“The Fishing Industry and Brexit”](#), George Eustice MP, 13 April 2016

¹⁵ [“The Fishing Industry and Brexit”](#), George Eustice MP, 13 April 2016

¹⁶ [HL Deb 16 Jan 2017 v778 c2GC](#)

¹⁷ [“The Fishing Industry and Brexit”](#), George Eustice MP, 13 April 2016

¹⁸ [“Brexit: Where next for UK fisheries?”](#), Marine Environmental Research, July 2016

¹⁹ [“Brexit: Where next for UK fisheries?”](#), Marine Environmental Research, July 2016

²⁰ [“Brexit”](#), The National Federation of Fishermen’s Organisations, 24 June 2016

be hard-pressed to get agreements as favourable as those we currently enjoy with third countries like Norway, Iceland, Russia, the Faroe Islands and Greenland”.²¹

The National Federation of Fishermen's Organisations noted that “we can certainly seek to renegotiate quota shares as well as access arrangement but it is realistic to expect that there will be a price of some sort. Who will pay that price is a critical question”.²²

Box 2: Relative stability

In 1983, after seven years of negotiations, it was agreed that fisheries and quotas in the EEZ would be shared on the basis of who was already fishing in those areas (the principle of relative stability). This meant that when the EEZ was introduced, there would not be any dramatic consequences for any Member State.²³ It was also felt that this would help to “prevent repeated arguments over how quotas should be allocated, and to provide fishers with an environment which [was] stable relative to the overall state of the stock in question”.²⁴

Relative stability also gave certain fishing-dependent communities in the UK and Ireland special protection in the form of additional quotas that would be taken from other Member States in the event of quotas falling below certain levels.²⁵

In retrospect it could be argued that this situation disadvantaged the UK, which might have asserted control over a greater proportion of the EU's catch through enforcement of a 200-mile EEZ. However, the UK government may have accepted the terms because:

- the agreement had little effect on UK fisheries at the time as the UK fleet was focused on other areas ([see our briefing on the Cod Wars](#) for more information);
- enforcing the EEZ might have led to significant conflict with other Member States;
- enforcing the EEZ might have been incompatible with EU membership;
- some UK fishing communities were given special protections.²⁶

3.3 The power to walk away from negotiations

Perhaps an additional bargaining tool available to the UK post-Brexit will be the ability to “walk away” from negotiations if it was unhappy with its share of quota.

Dr Bryce Stewart from the University of York said that “although this may sound appealing, it is likely to result in the setting of unsustainably high catch limits, as occurred during the recent “Mackerel Wars” when Iceland, Norway and the Faroes all argued for (and set) a higher quota / share of the catch than that advised by the EU”.²⁷

²¹ [“We must not lose our voice in EU fishing policy: Elizabeth Truss”](#), The National Federation of Fishermen's Organisations, 13 May 2016

²² [“What would Brexit really mean for the UK's fishing industry?”](#), The UK in a Changing Europe, 24 March 2016

²³ [“Government of the Faroes: Coercive economic measures are illegal and 26.07.2014 counterproductive”](#), The Government of the Faroe Islands, 26 July 2014

²⁴ [“How we manage our fisheries”](#), European Commission, viewed 27 May 2015

²⁵ [HC Deb 16 December 2004 c1220W](#).

²⁶ House of Lords European Union Committee, [The Progress of the Common Fisheries Policy](#), 22 July 2008, HL 146-i.

²⁷ [“What would Brexit really mean for the UK's fishing industry?”](#), The UK in a Changing Europe, 24 March 2016

If the UK chose to walk away from negotiations, and unilaterally set higher quotas, the EU could respond harshly. For example, when a dispute emerged between the EU and the Faroe Islands regarding herring quotas, the EU responded with trade sanctions, introduced a ban on Faeroese herring imports and prohibited the entry into European ports of Faroese fishing vessels.²⁸

Ultimately the Faroe Islands agreed to reduce its quota from 100,000 tonnes to 40,000 tonnes (albeit up by 9,000 tonnes from a previous agreement).²⁹ This was much less than the Faroese believed they should be entitled to on the basis of the science related to the distribution of herring in its waters, and in spite of the fact that the Faeroese Government claimed that the EU's actions were illegal under international law.³⁰

The Lords Energy and Environment Sub-Committee noted similar concerns, and concluded that “walking away [from negotiations] should be a last resort.”³¹ There remains significant uncertainty about the implications of Brexit in terms of the UK's bargaining power in fish quota negotiations.

3.4 Excluding foreign vessels from UK waters

Another argument for Brexit has been that it will enable the UK to exclude EU fishers from the UK's EEZ.³² This could be result in an increase in the amount of fish available to UK fishers. For example, a [study published in January 2017](#) found that UK boats' share of the total landings from the UK EEZ was less than one-third of the total by weight. The NAFC Marine Centre study examined how much fish and shellfish is caught within the UK's EEZ by EU fishing boats, and by UK boats in other areas of the EU EEZ. The results of the analysis indicate that over the five year period from 2011 to 2015:

- Less than half of the fish and shellfish landed from the UK EEZ by EU fishing boats (43% by weight) was caught by UK boats.
- If landings by non-EU (Faroese and Norwegian) fishing boats are included, UK boats' share of the total landings from the UK EEZ falls to less than one-third of the total (32% by weight).

²⁸ [“EU lifts fish sanctions on Faroe Islands, WTO dispute closed”](#), International Centre for Trade and Sustainable Development, 27 August 2014

²⁹ [“EU lifts fish sanctions on Faroe Islands, WTO dispute closed”](#), International Centre for Trade and Sustainable Development, 27 August 2014

³⁰ [“Government of the Faroes: Coercive economic measures are illegal and 26.07.2014 counterproductive”](#), The Government of the Faroe Islands, 26 July 2014

³¹ Lords EU Energy and Environment Sub-Committee, [Brexit: fisheries](#), 8th Report of Session 2016–17, **HL Paper 78**, 17 December 2016, para. 144

³² Burns, C., A. Jordan, V. Gravey, N. Berny, S. Bulmer, N. Carter, R. Cowell, J. Dutton, B. Moore S. Oberthür, S. Owens, T. Rayner, J. Scott and B. Stewart, [“The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?”](#), UK in a Changing Europe, 2016

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- Non-UK European Union fishing boats landed about 700,000 tonnes of fish and shellfish, worth almost £530 million, from the UK EEZ each year on average.
- UK fishing boats landed 92,000 tonnes of fish and shellfish, worth about £110 million, from other areas of the EU EEZ each year on average.
- Non-UK EU fishing boats therefore landed almost eight times more fish and shellfish (by weight) from the UK EEZ than UK boats did from other areas of the EU EEZ, or almost five times more by value.³³

However, some have questioned the extent to which the UK could exclude EU fishers from the UK's EEZ, and whether it would in fact be feasible. Issues that might arise include:

- increased political tensions during a time when the UK will be negotiating EU market access. The Danish fish producer organisation stated that the UK should only be granted access to the EU market on the basis that it still permitted access to UK waters;³⁴
- the possible retaliatory exclusion of UK vessels from EU waters. That could be “a major concern in the fishing industry as 20% of the fish caught by the UK fleet is landed elsewhere in the EU”, and because the UK fleet currently has access to areas outside of the UK's EEZ;
- a ban possibly contravening international law;
- the implications of damaging fish trading relationships with Europe, as “at present the UK exports around 80% of its wild-caught seafood, with four of the top five destinations being European countries”
- the capacity of marine enforcement services to monitor, patrol and exclude EU fishing boats from the entirety of the UK's EEZ.³⁵

Fisheries enforcement in UK waters

The Ministry of Defence (MOD) has an agreement with Marine Management Organisation (MMO) for the provision of Marine Enforcement Services, such as fishery protection.³⁶ This enforcement role is carried out by the Fishery Protection Squadron (FPS), which is comprised of three River Class Offshore Patrol Vessels covering UK waters.³⁷ Lord West of Spithead, a retired senior officer of the Royal Navy, has questioned whether three vessels are enough vessels to carry out the necessary patrols.³⁸ Moreover, since 2012/13 the FPS vessels have been tasked with maritime counter terrorism, pollution

³³ NAFC Marine Centre, [Fish Landings from the UK Exclusive Economic Zone and UK Landings from the EU EEZ](#), 31 January 2017

³⁴ “UK market access has to mean fishing access”, FiskerForum, 28 June 2016

³⁵ “What would Brexit really mean for the UK's fishing industry?”, The Conversation, 24 March 2016

³⁶ [Military Aid to Civil Authorities, 2016/17](#), Ministry of Defence, 15 June 2017

³⁷ [Military Aid to Civil Authorities, 2016/17](#), Ministry of Defence, 15 June 2017

³⁸ [HL Deb 3 July 2017 c675](#)

control or counter-drug surveillance roles in addition to their main task of fishery protection.

There has been an overall downward trend in the number of boardings by the FPS. This continued into 2016/17 when the Royal Navy FPS boarded 278 vessels within British fishery limits; 182 fewer boardings than in 2015/16 and a 40% drop.³⁹ Any infringements that are identified as a result of these boardings are followed up by the Marine Management Organisation (MMO).

Access to fish in non-EU European countries

Other non-EU European countries have granted access to EU vessels (including UK vessels) to their EEZ as part of negotiations on fisheries. For example, when Greenland left the European Economic Community in 1982 it negotiated “tariff-free access to the EEC market for fisheries products” and in return “it allowed continued European access to its waters”.⁴⁰

DEFRA Minister George Eustice reflected on the Norwegian (and Faroese) arrangements in a joint evidence session of the Environment, Food and Rural Affairs (EFRA) Committee and the EU Scrutiny Committee on 8 March 2017:

What we cannot say is that we will have an exclusion zone and that no-one can come into our waters. There will be a sense of saying that we will grant some access, but it might not be the same sort of access that they are used to. If you look at the annual negotiations that we have with Norway and the Faroe Islands, the key variables in a negotiation are, generally, the access that you are willing to grant, the share of the quota that you expect to have in return and the total allowable catch, as it were, and the total quota. Those are the three variables. There may be some trading of access in order to get a fairer share, for instance.⁴¹

Historic fishing rights

It is a requirement of the UNCLOS that coastal States minimise economic dislocation for States with a history of fishing in other coastal states’ waters. Moreover, under the CFP, there are reciprocal rights for Member States to fish in each other’s coastal waters between 6 and 12 nm. These access rights (‘Grandfather Rights’) are set out in article 17 of the basic CFP framework regulation, [EC No. 2371/2002](#). In addition to those historic fishing rights codified in the CFP, the UK has granted access for certain vessels to fish in the 6-12 nautical mile region of its’ coast through the London Fisheries Convention (see box 3).⁴²

Norway also has mechanisms for allowing access to its EEZ by EU (and therefore UK) vessels. These long-standing arrangements were

³⁹ [Military Aid to Civil Authorities, 2016/17](#), Ministry of Defence, 15 June 2017

⁴⁰ [“Reality Check: How would Brexit affect the UK’s fishing waters?”](#), BBC, 31 May 2016

⁴¹ Q.33 in [Oral evidence](#): Brexit: Agriculture and fisheries, 8 March 2017, **HC 1074**

⁴² [London Fisheries Convention](#), Treaty Series No. 35, 1966

put into place to enable fishers from both the EU and Norway to maintain access to historic fishing grounds in each other's EEZ.^{43 44}

It therefore seems possible that some form of agreement on continued EU access to UK waters, and vice versa, could be part of the negotiated settlement.

Box 3: Coastal fishing access rights in the 6-12 nm region: The 1964 London Convention on fisheries

What is the London Fisheries Convention?

Prior to the CFP, the [1964 London Convention](#) was signed by 13 European countries in order to establish and define a fisheries regime for their coastal waters. The Convention established rights for certain vessels to fish in the 6-12 nautical mile region of the coastal states of 13 European countries, if they had "habitually fished" in that same region between 1 January 1953 and 31 December 1962.⁴⁵

Under the CFP, there are reciprocal rights for Member States to fish in each other's coastal waters between 6 and 12 nm. These access rights ('Grandfather Rights') are set out in article 17 of the basic CFP framework regulation, [EC No. 2371/2002](#). For instance, French vessels have access to 15 different locations around the UK coast in the 6-12 nm region to fish for either specific species or all species in those areas.⁴⁶ The UK in turn has access to inshore waters of other Member States including, Germany, France, the Netherlands and Ireland.

What is the legal status of the Convention?

There are conflicting views on whether the London Convention continues to apply, or whether those rights were subsumed as part of the CFP. In evidence to the Lords EU Energy and Environment Sub-Committee, Robin Churchill, Professor Emeritus of International Law at the University of Dundee, said he thought that the CFP superseded the London Convention, meaning that historic fishing rights derive from EU law, and not from the Convention. Prof Churchill was therefore "sceptical" as to whether the London Convention rights could be revived after 40 years.⁴⁷ However, DEFRA Minister Lord Gardiner appeared to confirm that the London Convention provisions continue to apply, in answer to a [PQ on 9 March 2017](#).⁴⁸

Withdrawing from the London Convention?

The London Convention requires Member States to provide two years' notice if they wish to withdraw. [Fishing for leave](#) (a pro-Brexit fishing campaign group) see withdrawal from the London Convention (and the potential anomaly in fishing access rights post-Brexit) as an acid test of the UK Government's commitment to 'taking back control' of UK seas and fisheries resources.⁴⁹

On 2 July 2017, DEFRA Secretary of State Michael Gove confirmed that the UK would withdraw the Convention. He said that this represented "an historic first step towards building a new domestic fishing policy as we leave the European Union – one which leads to a more competitive, profitable and sustainable industry for the whole of the UK."⁵⁰

⁴³ "[Committee on Fisheries: Hearing CFP reform: the external dimension by Jóhán H. Williams, Director General, Norwegian Ministry of Fisheries and Coastal Affairs](#)" European Parliament, viewed 14 July 2016

⁴⁴ "[Fisheries cooperation with the EU](#)", The Norwegian Ministry of Trade, Industry and Fisheries, 8 March 2010

⁴⁵ [London Fisheries Convention](#), Treaty Series No. 35, 1966

⁴⁶ See Annex I Access to Coastal Waters Within the Meaning of Article 17(2) of [EC No. 2371/2002](#)

⁴⁷ Lords EU Energy and Environment Sub-Committee, [Brexit: fisheries](#), 8th Report of Session 2016–17, **HL Paper 78**, 17 December 2016, para. 38

⁴⁸ [PQ HL5592](#) [Fisheries] 9 March 2017

⁴⁹ [Govt. Brexit Fail on Fisheries by Not Scrapping London Convention](#), *Fishing For Leave*, 8 March 2017 [accessed: 9 March 2017]

⁵⁰ [UK takes key step towards fair new fishing policy after Brexit](#), DEFRA, 2 July 2017

3.5 Cooperation with the EU and other countries on setting quotas

The UK would need to cooperate with the EU after Brexit on quota setting. Cooperation on sharing stocks is required as many fish stocks are migratory and therefore cross EEZ boundaries. Fish populations could be damaged if countries failed to coordinate on fishing effort.

Such cooperation is enshrined in international law. The UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks and the UN Convention on the Law of the Sea (UNCLOS) in 1996⁵¹ require cooperation on the conservation and management of fish stocks that straddle national jurisdictions. The UK has ratified these agreements.

Such cooperation is currently seen in Norway and other non-EU European countries. Around 90% of Norway's fisheries are shared with other countries⁵², even though it is much more geographically isolated than the UK. The Norwegians set fish quotas and management strategies for important fish stocks in negotiation with other countries, including the EU and Russia. Norway and the EU have developed management strategies for several joint stocks including cod, haddock and herring.⁵³

The EU cooperates and negotiates with non-EU countries on behalf of Member States. The outcome of negotiations on one stock may be influenced by negotiations on another.⁵⁴

Following Brexit the UK will have to:

- maintain a close working relationship with the EU to enable the effective management of fisheries;
- agree a mechanism for agreeing quotas and management measures with the EU and other countries. This could be a bilateral mechanism between the UK and EU "in the case of stocks that are shared only between the EU and UK", or through the North East Atlantic Fisheries Commission (NEAFC) for stocks shared with other countries "as is currently the case with mackerel, which is negotiated between the EU, Norway, Iceland and the Faroe Islands".⁵⁵

⁵¹ ["Fishery and Aquaculture Country Profiles: The Kingdom of Norway"](#), Food and Agriculture Organization of the United Nations, 14 July 2016

⁵² ["Fishery and Aquaculture Country Profiles: The Kingdom of Norway"](#), Food and Agriculture Organization of the United Nations, 14 July 2016

⁵³ ["Norwegian fisheries management"](#), The Ministry of Fisheries and Coastal Affairs, 2007

⁵⁴ ["Committee on Fisheries: Hearing CFP reform: the external dimension by Jóhán H. Williams, Director General, Norwegian Ministry of Fisheries and Coastal Affairs"](#) European Parliament, viewed 14 July 2016

⁵⁵ ["Brexit: Where next for UK fisheries?"](#), Marine Environmental Research, July 2016

3.6 A new UK fisheries policy and management system

In its inquiry into the impact of Brexit on fisheries, the Lords Energy and Environment Sub-Committee concluded that withdrawal from the CFP provided an opportunity to review existing fisheries management practices and “develop a management regime that is tailored to the United Kingdom.”⁵⁶ But the committee also cautioned the Government against allowing a legislative deficit to develop. George Eustice, the Minister with responsibility for fisheries, has acknowledged that “We cannot have [...] a vacuum or period of chaos when there is no regulation at all.”⁵⁷

To this end, the previous Government announced that a “Great Repeal Bill” would repeal the *European Communities Act 1972* (the legislation that gives direct effect to all EU law in Britain) and convert existing EU law into domestic law, “wherever practical”.⁵⁸

For further information on the Great Repeal Bill, please see the Library briefing paper: [Legislating for Brexit: the Great Repeal Bill](#).

Furthermore, on 21 June 2017, the Government announced its intention to introduce a Fisheries Bill in the Queen’s Speech.⁵⁹

The UK Government could seek to retain a number fisheries management measures such as fishing within sustainable limits through a quota system.

Brexit could also help to address cases where it is argued that the EU has taken decisions on fisheries management that may be inappropriate to UK circumstances.⁶⁰ Nevertheless, following Brexit management will need to be well-coordinated with the EU given the extent to which stocks are shared. In March 2017, George Eustice said that post-Brexit he envisaged annual UK-EU negotiations in which there would be a discussion around

...the access that we might grant to other countries to our waters, the access that we might seek in their waters, the shares of the total allowable catch, what the levels of the total allowable catch are, and whether there will be protected areas for spawning grounds or nursing grounds for young fish.⁶¹

It could be that the UK will have less influence over the management measures of some stocks, as it may have less ability to participate in discussions with EU Member States.

⁵⁶ Lords Committee on the European Union Energy and Environment Sub-Committee, 8th Report of Session 2016–17, [Brexit: Fisheries](#), HL Paper 78, 17 December 2016

⁵⁷ [Lords Committee on the European Union: Energy and Environment Sub-Committee Oral Evidence: Brexit: Fisheries](#), 14 September 2016

⁵⁸ [HC Deb 10 Oct 2016 cc40-41](#)

⁵⁹ [Queen's Speech 2017](#), 21 June 2017

⁶⁰ “[Drift Net Ban pushed onto back burner](#)”, The National Federation of Fishermen’s Organisations, 22nd September 2014

⁶¹ Q.32 in [Oral evidence: Brexit: Agriculture and fisheries](#), 8 March 2017, HC 1074

The experience from Norway and other countries suggests that the UK may need to introduce a potentially complex system of fisheries management.⁶² A Norwegian marine scientist commented that “managing cod stocks is not rocket science—it is much more complicated than that” (see box 4 for more on the key elements of the Norwegian approach to fisheries management).⁶³ In many cases the management system may need to be negotiated and agreed with the EU.

“Managing cod stocks is not rocket science—it is much more complicated than that.”

Box 4: Key elements of the Norwegian approach to fisheries management

- limiting access to fisheries;
- basing quotas on scientific evidence about the maximum amount of fish that can be sustainably caught;
- reducing overcapacity in the sector (i.e. limiting or reducing the number of vessels);
- abandoning subsidies for fishing;
- controls on the types of fishing gear permitted;
- a discard ban;
- control and enforcement measures at port and at sea to ensure compliance;
- measures to protect marine habitats and biodiversity.⁶⁴

Effort control (days at sea limits)

It seems likely that the UK will develop a domestic system for managing fisheries, which could in large part reproduce the existing EU arrangements. The previous Government said that it was “looking at all sorts of different options”.⁶⁵ Some groups have called for a total re-think. For example, Fishing for Leave have called for the Government to dispense with the CFP quota system, and instead introduce a system of “effort control based on “Days at Sea”, measured in hours.”⁶⁶ The Minister told the EU Scrutiny and EFRA Committees that:

The evidence is that that kind of approach [effort based] works really well for things like in-shore fleets where you have small volumes but a very mixed fishery. It can work better than a quota system, but a quota system tends to work best at the other end where you have pelagic fish and very high volumes. We are looking at those sorts of options.⁶⁷

The [National Federation of Fishermen's Organisations \(NFFO\)](#) have also considered the pros and cons of this approach.⁶⁸ They explain

⁶² [“Cod almighty: the secret of Norway's monster fish bonanza”](#), The Guardian, 25 April 2016

⁶³ [“Cod almighty: the secret of Norway's monster fish bonanza”](#), The Guardian, 25 April 2016

⁶⁴ [“Changing attitudes 1970 – 2012. Evolution of the Norwegian management framework to prevent overfishing and to secure long-term sustainability”](#), Norwegian Directorate of Fisheries, 4 November 2015

⁶⁵ Q.53 in [Oral evidence](#): Brexit: Agriculture and fisheries, 8 March 2017, **HC 1074**

⁶⁶ [First Brexit Policy Released](#), *Fishing For Leave*, 1 March 2017 [accessed: 22 May 2017]

⁶⁷ Q.53 in [Oral evidence](#): Brexit: Agriculture and fisheries, 8 March 2017, **HC 1074**

⁶⁸ NFFO, [Are Days the answer?](#), 3 April 2017

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that “it is not difficult to see the appeal [of an effort control regime]”, but they also identify certain issues with the approach including:

- Difficulty managing shared stocks with the EU and other countries, such as Norway, who do not operate an effort control system.
- Fewer days at sea. The number of permitted at sea days could be set in relation to the weakest, not the strongest species in the mix, which could mean 60 days at sea rather than the 150, 200 or 300 days currently used by vessels to catch their quotas.
- Overfishing. The NFFO cite the EU cod recovery plan as evidence that “effort is a blunt tool” that has in the past led to overfishing.⁶⁹

The NFFO therefore conclude that “the system of TACs and quotas comes with many challenges, especially within the context of the landings obligation. But a leap into an unworkable system of effort control could be a lot worse.”⁷⁰

⁶⁹ NFFO, [Are Days the answer?](#), 3 April 2017

⁷⁰ NFFO, [Are Days the answer?](#), 3 April 2017

4. Funding for fishing communities

The CFP provides funding for a number of purposes including supporting sustainable fishing and helping coastal communities to diversify their economies. The European Commission [consulted](#) in early 2016 on a possible post-2020 fisheries fund, although no decision has yet been made.

The UK was allocated €243.1 million in fisheries funding from 2014-2020.⁷¹ These funds are then matched by the UK government. The UK Government's strategy for spending these funds can be found [here](#). The strategy provides for funding to be available for a range of projects, including those related to:

- innovation and training;
- economic growth;
- environmental sustainability;
- port and equipment upgrades;
- health and safety on vessels; and
- financing of small and medium enterprises.

It has been questioned whether future UK governments would continue to make these funds available after Brexit.⁷² If there is a contraction in the economy, fewer funds may be available for funding fisheries.⁷³

On 12 July 2016 the National Federation of Fishermen's Organisations (NFFO) Executive Committee said that it expected "the UK to provide at least the same level of financial support for the fishing industry as has been channelled through European funds".⁷⁴

The EU also provides scientific funding, of which the UK is a major recipient, and also supports joint marine science activities. Dr Bryce Stewart indicated that the "UK's involvement in such programmes would likely be limited after a Brexit".⁷⁵

⁷¹ "[European Maritime and Fisheries Fund \(EMFF\)](#)", European Commission, 22 June 2016

⁷² Burns, C., A. Jordan, V. Gravey, N. Berny, S. Bulmer, N. Carter, R. Cowell, J. Dutton, B. Moore S. Oberthür, S. Owens, T. Rayner, J. Scott and B. Stewart, "[The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?](#)", UK in a Changing Europe, 2016

⁷³ [Reality Check: What would happen to funding from EU post-Brexit?](#), BBC website, 14 June 2016

⁷⁴ [The NFFO Executive Committee met on 12th July 2016 to discuss the implications of Brexit](#), NFFO website, 12 July 2016

⁷⁵ Burns, C., A. Jordan, V. Gravey, N. Berny, S. Bulmer, N. Carter, R. Cowell, J. Dutton, B. Moore S. Oberthür, S. Owens, T. Rayner, J. Scott and B. Stewart, "[The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?](#)", UK in a Changing Europe, 2016

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On 16 March 2017, the previous Government responded to the Lords EU sub-committee report on Brexit and Fisheries. In their response, the previous Government stated that EU structural funding for the sector was covered by the [guarantee the Chancellor gave on 13 August 2016](#), but that a decision had not yet been taken on long-term support for the industry and coastal communities.⁷⁶

Following Brexit, financing of fisheries support and science will become a decision solely for the UK Government.

⁷⁶ [Government response to House of Lords EU Energy and Environment Sub-Committee Report into the future of fisheries in the light of the vote to leave the EU](#), 16 March 2017

5. Market access

The EU is “the largest single fisheries market in the world and a net importer of fish and fish products”.⁷⁷

The UK is also a net importer of fish and fish products, largely dependent on imports from non-EU countries (such as Norway and Iceland) to meet demand; approximately two thirds of imports to the UK come from non-EU countries. However, the UK relies on EU markets for its exports. While the UK has a small trade surplus with the EU in fish, this masks different patterns of trade across species. Indeed, much of the fish caught and landed in the UK is directly sold to export, largely due to the fact that the species landed do not meet UK tastes.

Tariffs on fish imports are applied on a range of fisheries products from non-EU European countries such as Norway. The EU also has a system of autonomous tariff quotas for certain fish and fish products, whereby the duty is suspended or reduced for certain fishery products where the EU depends on imports from ‘third countries’.⁷⁸ This means that the EU can relax tariffs on raw materials, semi-finished goods or components available in insufficient quantities in the EU. This allows EU fish processors to take unprocessed fish from outside the EU tariff-free, process it and sell it on.

The UK fish-processing industry has identified market access to EU and non-EU countries as a key priority as well as inclusion in the current system of Autonomous Tariff Quotas (ATQs).⁷⁹

Norway

The European Economic Area covers most sectors, but not fisheries management and trade in fisheries products.⁸⁰ As a Member of the EEA, Norway does not benefit from completely free trade in fisheries products, but it has managed to agree “preferential or tariff-free access to EU markets” for many of its products according to Civitas (a think tank). As a result, Civitas argued that Norway had successfully defended its interests and market access even though it was outside of the EU.⁸¹

However, the Confederation of British Industry (CBI), the business organisation, noted that tariffs had had an impact on fish processing in Norway. It stated that tariffs had led to “most of Norway’s fish-processing industry relocating within the EU, principally to Scotland, to continue to benefit from full market access”.⁸²

⁷⁷ [“Fishing outside the EU”](#), European Commission, 10 December 2015

⁷⁸ [Tariff quotas](#), EU, accessed: 16 June 2017

⁷⁹ Seafood Industry Alliance — Written evidence ([FBR0008](#))

⁸⁰ Q 22 in [Oral evidence: Brexit: Fisheries](#), 14 September 2016, Evidence Session No. 2 Lord EU Energy sub-committee

⁸¹ [“The Norwegian Way: A case study for Britain’s future relationship with the EU”](#), Civitas, February 2015

⁸² [“The Norway Option”](#), CBI, viewed 14 July 2016

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It is also relevant to note that Norway has provided reciprocal access to its waters, and contributes to the EU budget. In order to negotiate reduced or tariff-free access to the EU, it is possible that the UK would need to make concessions on fisheries or in other areas unrelated to fisheries.⁸³

The Danish fish producer organisation has stated that the UK should only be granted access to the EU market on the basis that it still permitted access to UK waters for EU vessels.⁸⁴

Following Brexit the UK may no longer have tariff-free access to the EU market, although access to the market will depend on the negotiations and the future nature of UK-EU relations.

The UK, as in other trade areas, would still in all likelihood have to comply with any EU market regulations to export fishery products to the EU. The UK will have less influence over what those regulations will be.

⁸³ [“Norway wants to remove trade barriers for seafood exports to the EU”](#), Undercurrent News, 13 January 2015

⁸⁴ [“UK market access has to mean fishing access”](#), Fisker Forum, 28 June 2016

6. Interactions with EU environmental laws

A number of EU laws relate to the protection of the marine environment, including the Marine Strategy Framework Directive, the Conservation of Wild Birds Directive and the Conservation of Natural Habitats and of Wild Flora and Fauna Directive.

The protection of the environment can deliver benefits to the management of fish stocks. For example, the Birds and Habitats Directives have contributed to the creation of a network of marine protected areas (MPAs) around the UK. MPAs are a tool to protect the marine environment, while also enabling its sustainable use and ensuring it remains healthy. According to Dr Bryce Stewart, such areas can “have a direct influence on fisheries (by restricting where they can operate) but are also likely to be beneficial to fisheries in the long run”.⁸⁵ Such European protected areas “have generally offered much higher levels of protection” than marine protected areas created by the Government under domestic legislation.⁸⁶

If the UK negotiates membership of the EEA, it would be required to continue to apply much European environmental legislation, including the Marine Strategy Framework Directive. However the Birds and Habitats Directives are excluded from the EEA and thus would fall away regardless of whether or not the UK remains part of the EEA.⁸⁷ The Government’s nature conservation advisors, the Joint Nature Conservation Committee, have said that the Birds and Habitats Directives have helped the UK to effectively coordinate with other EU countries on conservation action and science.⁸⁸

The Government has committed to converting all EU law into domestic law through the Great Repeal Bill (see Section 3.6 above) which may mean that similar MPAs remain. However, the uncertainties around the details of the Great Repeal Bill means it is still not clear the extent to which Brexit will effect marine conservation, and therefore whether there might also be implications for fisheries management.

⁸⁵ Dr Bryce Stewart, Personal Communication, 13 July 2016

⁸⁶ Burns, C., A. Jordan, V. Gravey, N. Berny, S. Bulmer, N. Carter, R. Cowell, J. Dutton, B. Moore S. Oberthür, S. Owens, T. Rayner, J. Scott and B. Stewart, “[The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?](#)”, UK in a Changing Europe, 2016

⁸⁷ Burns, C., A. Jordan, V. Gravey, N. Berny, S. Bulmer, N. Carter, R. Cowell, J. Dutton, B. Moore S. Oberthür, S. Owens, T. Rayner, J. Scott and B. Stewart, “[The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?](#)”, UK in a Changing Europe, 2016

⁸⁸ “[Directive 2009/147/EC on the conservation of wild birds \(codified version\)](#)”, JNCC, October 2014

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