

## **Guidance**

# **Commercial fishing if there's no Brexit deal**

**Updated 15 October 2018**

A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an overarching framing notice explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

## **Purpose**

This notice sets out how the commercial fishing industry (the commercial catching of fish, as well as the marketing of fish and seafood) would be affected if the UK leaves the EU without a deal in March 2019.

## **Before 29 March 2019**

The commercial catching of fish and marketing of fish and seafood, including the farming of fish, crustaceans, molluscs, aquatic plants and algae (aquaculture), is regulated by the European Union's Common Fisheries Policy (CFP). The European Maritime and Fisheries Fund (EMFF) provides money, including industry grants, to member states for certain fisheries activities.

## **After March 2019 if there's no deal**

When we leave the EU, the UK will formally leave the CFP and introduce our own fisheries policies. The government's White Paper, Sustainable Fisheries for Future Generations, published on 4 July 2018, sets out a clear direction for a sustainable and profitable fishing industry. The White Paper also states the government's intention to move away from the "relative stability" towards a fairer and more scientific method for quota allocation, regardless of exit scenario.

The EU Withdrawal Act 2018 will ensure EU law is transferred into UK law and continues to have effect so that we have a functioning statute book from the day we leave. Defra, together with the Devolved Administrations, is currently preparing secondary legislation (under the Withdrawal Act) to ensure the law works in the UK after we leave.

The UK will assume the rights and obligations of an independent coastal state under the UN Convention on the Law of the Sea (UNCLOS) relating to our territorial waters (out to 12 nautical miles) and Exclusive Economic Zone (out to 200 nautical miles or the median line with other states). We will be responsible for managing natural marine resources in these areas, and be able to control and manage access to fish in UK waters. We will meet our international obligations under UNCLOS to cooperate with other

coastal states over the management of shared stocks. We will ensure that appropriate fisheries control and enforcement measures continue.

### **Access to waters**

- Access to fish in UK waters: While non-UK-registered vessels will no longer enjoy automatic access to UK waters (subject to any existing agreements relating to territorial waters), there will be no change to the rights and responsibilities of UK-registered vessels fishing in UK waters. They must continue to abide by the relevant legislation and licence conditions, including the economic link criteria.

- Access to fish in EU and third country waters: There will be no automatic access for UK-registered vessels to fish in EU or third country waters (subject to any existing agreements relating to territorial waters).

- Fishing opportunities for UK vessels in UK waters: UK Fisheries Administrations will tell UK quota holders what their quota allocation will be. The government will also confirm arrangements for those who fish for non-quota shellfish (scallops and edible/spider crabs) and demersal species under the Western Waters effort regime. UK Fisheries Administrations inform quota holders of their allocations in March each year and will seek to do so in 2019 to minimise disruption to fishing and allow fishermen to plan for the year. There will be no automatic access to exchanging fishing opportunities with EU member states, and no automatic access for EU member states to exchange fishing opportunities with the UK.

### **Access to ports**

UK-registered vessels landing into EU and third country ports

UK-registered vessels will no longer have an automatic right to land fish in any EU port. Access will be permitted to EU designated ports for port services, landings, transshipment and the use of market facilities where vessels meet EU requirements governing illegal, unreported and unregulated fishing. UK-registered vessels will have to notify their intention to visit an EU designated port and present information relating to the vessel and catch on board. UK vessels may be subject to

inspection: this could include a full document check, inspection of the catch and, where information has been provided electronically, database checks.

Access to EU and third country ports by UK-registered vessels will be permitted without prior notice in cases of distress or force majeure.

In anticipation of our joining the North-East Atlantic Fisheries Commission (NEAFC), UK-registered vessels wishing to continue fishing in the NEAFC Convention Area and landing into the EU will have to complete Port State Control 1 forms, available on the NEAFC website.

### **EU and third country vessels landing into UK ports**

Access to UK ports for non-UK vessels, including EU vessels, will be subject to equivalent requirements to those outlined above. They will be required to provide notice of the intention to land into a designated port in the UK, except in cases of distress and force majeure.

EU vessels fishing in the NEAFC Convention Area and landing into the UK would need to complete a Port State Control 1 form.

### **Regional fisheries management organisations (RFMOs)**

The UK will no longer be a member of RFMOs through EU membership. As an independent coastal state, we will join all relevant RFMOs as quickly as possible.

The process of joining RFMOs and ratifying their conventions may take up to 6 months: there may, therefore, be a short gap in our membership. During this time, UK vessels may not be able to fish in international waters covered by RFMOs.

### **European Maritime and Fisheries Fund (EMFF)**

The UK government has guaranteed that in a 'no deal' scenario all structural and investment fund projects, including EMFF projects, approved before 31 December 2020 will be fully funded.

## **Labelling and marketing of fishery and aquaculture products**

All common marketing standards for fish sold for human consumption - whether in the UK or the EU - will remain the same, including those governing quality, size, weight, packing, presentation or labelling and minimum marketing sizes. All labelling requirements for fish and aquaculture products for onward sale in the UK or EU will also remain the same (whether they were whole, filleted, or processed). This will include the requirement to show on labels the name of the fish, the date and method of its capture (fishing gear or farming method), whether it was wild or farmed, defrosted or fresh.

The responsibilities of Producer Organisations to promote sustainable fishing activities, market members' products, build relationships with the supply chain, and where appropriate, manage quota, will remain unchanged.

## **Import and export of fishery products**

Trade in fishery products obtained from illegal, unreported and unregulated fishing will remain prohibited. Most fish and fish products will require a catch certificate for import or export between the UK and EU. A catch certificate is not required for trade in some aquaculture products, freshwater fish, some molluscs, fish fry or larvae. Specific additional measures relevant to the import and export of fishery products from and to the EU are listed below:

- Exports of UK-caught fish and fishery products to the EU: The EU will require exporters to issue a catch certificate with each consignment of fish or fishery products exported to the EU. It will be the responsibility of the exporter to complete a catch certificate. If the consignment were sourced from more than one UK vessel, a Multiple Vessel Schedule would need to be completed and submitted alongside the catch certificate. Vessel owners or skippers making direct landings of UK vessels into EU ports will also need to issue a catch certificate. The content of a catch certificate will need to be verified by the UK fisheries authority where the vessel is licensed before being submitted to the competent authority in the EU country of import. The UK fisheries authorities are the Marine Management Organisation in England, Marine Scotland, the Department of Agriculture, the Environment and Rural Affairs in Northern Ireland and

the Welsh Government. The UK fisheries authorities are developing an IT system to facilitate the increase in export catch certificates.

- Imports of EU-caught fish and fishery products to the UK: Each consignment or direct landing of fish or fishery products imported into the UK from the EU will require a catch certificate. The exporters will have to submit the certificate to the Port Health Authorities or relevant fisheries authority to be checked at least three working days before the estimated arrival time into the UK. This deadline could be adapted to take into account the type of fishery or distance from fishing ground to port, for example.

- Eels and eel products: Trade in the European eel (*Anguilla anguilla*), within and outside the EU, will remain subject to the Convention on International Trade in Endangered Species (CITES) and allowed only where it is shown not to be detrimental to the wild population. As there is currently no non-detriment finding for the population, the UK will not be able to import or export European eel. Most of the eel (*Anguilla japonica*) consumed in the UK is imported from China and so the impact on consumers should be limited.

Anyone importing or exporting fish or fishery products should also reference the relevant technical notices relating to the import and export of animal products.

### **More information**

The European Commission maintains a list of designated ports for third country landings on its website. Further information on access to EU ports and the laws on Illegal, Unreported and Unregulated (IUU) fishing can be found in Regulation (EC) No 1005/2008, Chapter II, Section I.

You should also refer to guidance on catch certificates and advice on food labelling. Importers and exporters of fish and fishery products should also refer to other relevant technical notices.

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.

The UK government is clear that in this scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are co-signatories of the Belfast Agreement. The UK government has consistently placed upholding the Agreement and its successors at the heart of our approach. It enshrines the consent principle on which Northern Ireland's constitutional status rests. We recognise the basis it has provided for the deep economic and social cooperation on the island of Ireland. This includes North-South cooperation between Northern Ireland and Ireland, which we're committed to protecting in line with the letter and spirit of Strand two of the Agreement.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU member states. The UK would stand ready in this scenario to engage constructively to meet our commitments and act in the best interests of the people of Northern Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context.

It remains, though, the responsibility of the UK government, as the sovereign government in Northern Ireland, to continue preparations for the full range of potential outcomes, including no deal. As we do, and as decisions are made, we'll take full account of the unique circumstances of Northern Ireland.

Norway, Iceland and Liechtenstein are party to the Agreement on the European Economic Area and participate in other EU arrangements. As such, in many areas, these countries adopt EU rules. Where this is the case, these technical notices may also apply to them, and EEA businesses and citizens should consider whether they need to take any steps to prepare for a 'no deal' scenario.

