

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

Introduction

The Government welcomes the EU energy and Environment Sub Committee's report into the future of fisheries in the light of the vote to leave the EU. Fisheries will be a key area in the EU Exit negotiations and the Committee's valuable report highlights some of the complex and challenging issues which will have to be addressed as part of the negotiations.

In 2015, EU vessels caught 683,000 tonnes (£484 million revenue) in UK waters and UK vessels caught 111,000 tonnes (£114 million revenue) in Member States' waters. Given the heavy reliance on UK waters of the EU fishing industry and the importance of EU waters to the UK, it is in both our interests to reach a mutually beneficial deal that works better for the UK and the EU's fishing communities. Following EU exit, we will want to ensure a sustainable and profitable seafood sector and deliver a cleaner, healthier and more productive marine environment.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

A new legal baseline

1. As an independent coastal state under the UN Convention on the Law of the Sea, the United Kingdom will be required to manage the living resources and fishing activities within its Exclusive Economic Zone in a sustainable way. Consequently it will be for the UK Government, and the Devolved Administrations, to develop and implement a domestic fisheries policy after withdrawal from the EU.

The Government will work with devolved administrations, industry and other stakeholders to develop a domestic fisheries policy after withdrawal from the EU. It is intended that this policy should be tailored to better meet the needs of the UK fishing fleet.

2. The UK will also be required to co-operate with adjacent coastal states to manage those stocks which are shared with neighbours as well as straddling stocks to minimise the risk of over-fishing.

The Government will abide by its obligations and responsibilities under international law (such as the UN Convention on the Law of the Sea – UNCLOS, and the UN Fish Stocks Agreement – UNFSA) and stands ready to co-operate with adjacent states to ensure that shared and straddling stocks are managed sustainably and effectively. We want to avoid the risk of over-fishing at all costs.

3. In declaring an Exclusive Economic Zone independent from EU waters, the UK would be able to control the access that foreign vessels have to fishing in UK waters. It will be for the Government of the day to decide whether the principle of equal access should be preserved, and the extent to which foreign vessels should be granted access to fishing in the UK EEZ.

The Government agrees that as an independent coastal state outside the EU, the UK would be fully responsible, under international law, for control of the waters in our Exclusive Economic Zone (EEZ) and for the management of those resources within it, including fisheries. Granting any rights of access would come under this new legal baseline, but no decisions have yet been made.

4. The UK could choose to exclude foreign vessels that have gained access to fishing in UK waters through the Common Fisheries Policy, including those that claim historic access rights. To do this it would need to use the full Total Allowable Catches in its Exclusive Economic Zone, while bearing in mind the obligation under international law to co-ordinate with neighbouring states. In making this decision the Government would have to take into account any impact such a change could have on relations with neighbouring states that currently have access to fishing in the UK EEZ.

The Government remains committed to cooperating with neighbouring states on future fisheries arrangements. The Committee rightly notes that we will need to take into account the impact that different options could have on relations with those states and this will be taken into consideration in future policy development.

5. The practice of quota-hopping is possible because of EU Freedom of Establishment rules, rather than as a consequence of the Common Fisheries Policy. Whether the practice is maintained post-Brexit is likely to be determined in the course of the negotiations on withdrawal. In the meantime, the Government could consider whether a strengthening of the 'economic link' could enhance the benefits derived from UK quotas for UK communities.

The Government will consider the economic link rules as part of the development of our future fisheries management arrangements, with a view to maximising the benefits deriving from UK quota for UK communities.

A domestic policy fit for purpose

6. The Great Repeal Bill proposed by the Prime Minister seems to reflect the option set out by the Minister, George Eustice MP, of repatriating all EU law and refining it over time, and does not preclude a review of current measures and their suitability for the UK. The Government must prevent a legislative deficit.

The UK will no longer be bound by the Common Fisheries Policy (CFP). We are currently analysing all EU fisheries legislation to determine which measures should be incorporated into domestic law.

7. Withdrawal from the Common Fisheries Policy is an opportunity for the UK to review fisheries management practices and develop a management regime that is tailored to the United Kingdom. It is an opportunity for the UK to address concerns regarding the current fisheries management regime and to reflect the needs and interests of coastal communities, the wider marine environment and the industry.

We are working closely with the industry and other stakeholders to understand their priorities for reform. We are also looking closely at different fishing management regimes across the world to inform the development of our policies in the UK.

8. Developing an effective and sustainable policy that is appropriate for UK waters and that respects the devolution settlement will require a process based on consultation and evidence. Implementing and enforcing such a policy will require substantial resources and political will. The Government must also decide whether to replace EU structural funding to the industry and coastal communities following Brexit.

Defra is working closely with the Devolved Administrations (DAs) and stakeholders sharing factual information and establishing views and priorities to get the best possible deal for all parts of our United Kingdom as we leave the EU.

EU structural funding for the sector (the European Maritime and Fisheries Fund) is covered by the guarantee the Chancellor gave on 13 August 2016, although a decision has yet to be taken on any long-term support for the industry and coastal communities.

9. The devolution of fisheries management means that Brexit could lead to four different fisheries management regimes within the UK. It is vital that the UK Government develops a unified negotiating position that represents the interests of the Devolved Administrations and industries prior to engaging in international fisheries negotiations, both in the context of Brexit and beyond.

We must work carefully to ensure that as powers are repatriated from Brussels back to Britain the right powers are returned to the UK Parliament, and the right powers are returned to the devolved administrations of Scotland, Wales and Northern Ireland. The Prime Minister has been clear that no decisions currently taken by the devolved administrations will be taken from them. The Government has set up a Joint Ministerial Committee on EU Negotiations, so ministers from each of the UK's devolved administrations can contribute to the process of planning for our departure from the European Union.

10. Until the UK withdraws from the EU, it will remain a Member State. Legislative proposals currently under consideration in the EU may come into force before the

UK leaves the EU, or will have an effect on fisheries management in the UK after withdrawal, thanks to the mobility of stocks. The Government must therefore continue to engage with the development of EU proposals until such a time that withdrawal is complete.

The UK will continue to play a full part in the development of EU proposals until EU withdrawal is complete.

11. A new fisheries management regime within the UK will only be effective if there is a degree of alignment to, and co-operation with, neighbouring states. Such regional co-operation will necessitate co-ordinated objectives and similar management practices, without which the sustainability of shared stocks may be undermined. The UK should not discard the positive elements of the CFP that successive Governments have worked hard to achieve, such as sustainability and regional co-operation.

The Government is committed to ongoing co-operation and co-ordination of objectives with neighbouring states. Our overall objectives of championing sustainable fisheries and ending discards will remain in place.

12. The geographical proximity of the United Kingdom to the European Union and Nordic states such as Norway, Iceland and the Faroe Islands, the mobility of many fish stocks, the international law obligation to co-operate with adjacent states to manage such stocks, and the risk of over-exploitation, all necessitate an effective and immediate co-operative relationship in fisheries management with the EU and other neighbouring states.

It is the Government's intention to foster immediate and effective relationships with the EU and neighbouring states.

Total Allowable Catches and relative stability

13. Scientific advice is crucial to reaching agreement on the exploitation rates for shared stocks, and we welcome the Minister's assurance that the Government will continue to adopt a science-based approach. But Total Allowable Catches are ultimately political decisions, albeit informed by scientific advice, and replacing the current structures for negotiating TACs for shared stocks will be critical in order to deliver the UK and the EU's commitments to fishing sustainably.

The Government agrees that new structures for negotiating TACs will be an essential part of any new fisheries management regime. The Government remains committed to taking a science-based approach and to ongoing co-operation with other countries over the management of shared stocks. Our objective of championing sustainable fisheries and ending wasteful discards will be as strong as ever.

14. However the Government approaches fisheries management after Brexit, it must resist the political temptation to set TACs above the scientific recommendations.

Ministers should therefore be under an obligation to set and negotiate TACs that are aligned with the scientific advice, and that will deliver the Maximum Sustainable Yield.

The Government intends to maintain its manifesto commitments to delivering Maximum Sustainable Yield. This would automatically require us to set TACs that are not above the ranges of scientific recommendations.

15. The extent to which Brexit will lead to higher quotas for UK fishers of stocks that are shared with other countries will be a matter for negotiations with the EU and neighbouring states. In withdrawing from the EU the Government could negotiate a new allocation of quotas for shared stocks to address the inequalities described by witnesses in current distributions and address the changed distribution of stocks.

The issue of revised quota allocations for shared stocks is one that the Government will take into account in the negotiations.

16. Landing data offer support to the argument that the UK receives a disproportionately small quota of stocks that are caught in the UK EEZ. But many stocks spend part of their lives in the EEZs of other countries and cannot be regarded as only 'UK fish'. Failure to recognise that shared stocks require shared management could lead to overfishing and over-exploitation of these stocks. It will be crucial to seek science-based agreement on how such stocks are shared to ensure their long-term sustainable exploitation.

The Government agrees that it will be essential to seek science based agreements on how all stocks are shared to ensure long term sustainable exploitation. The UK will play an active part in ensuring that this happens during negotiations.

17. Scientific assessment of the time that stocks spend in a given EEZ, and at which point in their lifecycle, could provide a robust basis for negotiating a quota allocation that accurately reflects the proportion of shared stocks belonging to the UK and to other states. We therefore welcome the zonal attachment assessment commissioned by the Minister, which could inform negotiations with the EU over a new allocation mechanism for quota shares after Brexit.

The Government thanks the Committee for its comments and very much hopes that the work commissioned will prove valuable in forthcoming negotiations.

18. Any new allocation mechanism for TAC shares could include a timetable for regular review, taking account of industry preferences, fish stock distributions and catch patterns. This approach would provide short-term stability, and facilitate agreement between the parties, while reducing the risk of distortion over time.

The Government will take the need for a periodic review of any new allocation mechanism for sharing TACs into account in the negotiations.

Access and negotiating quotas

19. Catch statistics suggest that EU vessels have a clear interest in preserving access to the UK EEZ, and give support to the Minister's view that there is an imbalance between the benefits derived by EU vessels fishing in the UK EEZ and those derived by UK vessels fishing in the EU.

The Government agrees with the observation made by the Committee and is considering the different options available to redress this imbalance.

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

The Government is looking at access arrangements generally and would hope that any deal with the EU on future fisheries arrangements would include provisions on mutual access to UK/EU waters.

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

The Government agrees with the comments made by the Committee and this will be a key consideration in the negotiations.

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

The Government agrees that the sustainability of our fish stocks is paramount and would prefer not to take a unilateral approach if that can be avoided.

Fisheries and trade

23. Trade in fish and seafood is essential to the wider seafood industry, which relies heavily on importing raw goods at reduced or zero tariffs for domestic consumption, and on exporting domestic catches and production. Any disruptions to the current trading patterns could have profound effects on both the catching and processing sectors.

Our processing sector is a critical part of the wider seafood industry. We are already working with that part of the industry to determine how any disruption on leaving the EU could be minimised, at the same time as making the most of any new market opportunities.

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

The needs of the seafood sector have been included in the Government's consideration of priorities for future trading relationships outside the EU.

25. Depending on the future trade relationship with the EU, the UK may be able to negotiate new preferential trading relations with non-EU countries, though such negotiations are likely to be complicated and time-consuming. It is uncertain whether new markets would be able to replace or compensate for current exports to the EU.

The Government, and industry, recognise that there are potential opportunities to open up new relations with non EU countries and will be seeking to make the most of these.

26. There is a likelihood that the Government may come under pressure to balance the negotiations over a future fisheries relationship, including quota shares and access arrangements, against the negotiations over trade in fish products with the EU.

The Government will ensure that we secure the best possible deal for the UK fishing industry when we leave the EU.

The wider Brexit negotiations

27. The vote to leave the European Union, and with it the Common Fisheries Policy, has raised expectations for the future of fisheries policy that may be hard to deliver. In withdrawing from the EU, the UK will be able to develop a domestic fisheries policy and control fishing activity within its EEZ. However, the majority of commercial fish stocks in UK waters are shared with other states, rendering continued co-operation with the EU and other neighbouring states crucial to the sustainability of those stocks.

The Government is committed to having close relationships with neighbouring coastal states in order to ensure that stocks are managed sustainably and that decisions are science based.

28. The fishing industry contributes a small proportion of the UK GDP compared to other sections of the UK economy, but has significant social, cultural and economic value for coastal communities across the United Kingdom. Therefore it must not be marginalised in the wider Brexit negotiations.

The Government agrees with the observation made by the Committee.

29. The UK will be able to negotiate new quota shares and to withhold access to fishing in UK waters as a bargaining tool for achieving increased allocations. Yet the Government may come under pressure to balance this potential against the need for continued trade in fish with the EU, while also seeking to develop new frameworks for managing a shared and vulnerable resource. The Government faces a huge challenge in seeking to achieve a successful outcome to these negotiations.

The Government does not underestimate the scale of the challenge that faces us in forthcoming negotiations. We will achieve the best possible outcomes for the U.K.

Relationship models

30. The bilateral relationship between the EU and Norway shows that close cooperation between adjacent coastal states is necessary and possible, though complicated. The key elements of the relationship are reaching agreement on Total Allowable Catches for shared stocks, dividing the TACs, and exchanging mutual access rights to fishing in the respective EEZs of the parties. The UK could pursue similar arrangements for managing shared stocks post-Brexit.

The Government has been reviewing different models of regional co-operation and we will seek to develop an approach that we consider works best for the UK and the sustainable management of shared stocks.

31. The example of the regional Agreement for management of fisheries in Skagerrak and Kattegat may offer a suitable point of departure for a future UK-Ireland-EU relationship in the Irish Sea.

A future UK-Ireland-EU relationship is a key priority for the UK. We are considering all the different options, including the Skagerrak and Kattegat agreement, available to us in order to reach an agreement that suits all parties.

32. As a result of its EU withdrawal the UK will no longer be party to the Northern Agreements. New bilateral, trilateral or coastal state agreements with countries such as Norway, Iceland and the Faroe Islands will be necessary, if the UK is to continue to play a part in co-ordinated management of shared and straddling stocks

in the North Sea and the North-East Atlantic. The Government should therefore pursue new, or interim, agreements as a matter of urgency, building on existing models where possible.

Securing new bilateral, trilateral and coastal state agreements with neighbouring countries is a priority and we are assessing the different options for achieving this in the most effective way.

33. As we have concluded, fisheries management cannot be seen in isolation from that of neighbouring states. The UK could seek to negotiate continued participation in Advisory Councils in order to maintain a degree of influence over the regionalisation of fisheries management in the EU.

The UK is proud of the influence it has been able to bring at Advisory Councils and the impact that this has had on recent reforms of the Common Fisheries Policy. Although it is too early to determine how we could enable that to continue we intend to strengthen our position as a champion of sustainability and conservation in the region.

34. Independent participation in international negotiations with other coastal states will be crucial for delivering sustainable management of straddling stocks. By establishing its independent membership post-Brexit of Regional Fisheries Management Organisations the UK will negotiate directly with other coastal states regarding the management and sharing of important stocks. Therefore, UK membership of relevant RFMOs, particularly NEAFC, must be established.

The Government fully intends to become a member of relevant Regional Fisheries Management Organisations. Seeking membership of the North East Atlantic Fisheries Commission as quickly as we can will be a priority.