



EU Energy and Environment Sub-Committee

Brexit: Fisheries

Written and Oral Evidence

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Angling Trust — Written Evidence (FBR0013)

Before the UK can negotiate with the EU on fisheries, it needs to be crystal clear on its objectives and the means by which it intends to obtain those objectives.

We suggest that the high level objectives should be:

1. Firstly, to ensure that European Fisheries are well-managed, since poor management in European fisheries leads to sub-optimal results that impact all European countries, including the UK. European fisheries management must strive to “increase the pie”.

This involves the UK thinking not just about how fishing opportunities are allocated, but also about how to improve the basic machinery of European fisheries management, for example:

- landing reporting, particularly for the UI0 fleet, which are notoriously under-reported
- effective enforcement
- ensuring protection of nursery areas
- protecting spawning stocks
- work on selectivity/reducing discards
- ensuring that subsidies are directed to the most essential projects

Habitat protection and conservation zones also play an important part in improving stock levels. The UK needs to consider how it will ensure that progress continues to be made throughout Europe, enforcing and building upon existing law such as the Marine Strategy Framework Directive.

2. Secondly, to get the best deal for the UK from a shared resource.

The best deal will maximise the long-term environmental, social and economic benefits accruing to UK society as a whole. This means we must not simply look to maximise the landings allocated in the short term to commercial fishing.

Long-term benefits available from improving stocks have often been compromised by politicians misguidedly trying to protect their commercial fishermen’s short-term profits. The UK is now in a stronger position to demand that fishery decisions are focused on long-term maximisation of benefits.

Historically, the focus in fisheries management has been on commercial fishing, but studies have shown that recreational fishing use of the same fisheries resource generates far greater environmental, social and economic benefits than commercial fishing. So for those stocks that are currently fished by both commercial fishermen and recreational anglers, for example cod and bass, Brexit is a crucial opportunity to reconsider how the UK can extract the greatest benefit from these stocks.

Unsustainable fishing techniques are a barrier to maximising benefits from fish stocks. The CFP requires incentives to be provided for sustainable fishing, but to date little or no progress has been made – the UK should require the EU to deliver on this issue. Small scale fishermen using sustainable fishing methods must be given sufficient quota to allow them to survive without having to over-fish non-quota species.

The UK needs to think particularly carefully about how it currently influences the decision-making of the EU and how it will be able to influence the EU once Brexit is finalised. For example, where and how often will UK fishery managers meet with their EU counterparts? How will UK fishery managers remain closely involved in decision-making processes if they cannot participate in meetings such as working parties and fishing opportunity meetings? How will stakeholders get their voices heard – will UK stakeholders continue to play a part in Advisory Council meetings?

Finally, many of the questions posed below refer to the UK's 'national interest'. It would be helpful if this was more clearly defined as the interpretation of what this means (economically, socially, environmentally, politically?) differs and has a very significant bearing on how the questions are answered.

1. Which are the most urgent priorities for the UK's negotiations with the EU on a future relationship with the EU regarding fisheries and why?

Establishing sustainable levels of fishing – and ensuring that the move towards sustainability is maintained for stocks which are currently fished at unsustainable levels. As tempting as it may be for the UK to allocate fishing opportunities unilaterally it is not in the long term national interest of the UK to increase the UK's fishing opportunities, fish shared stocks at unsustainable levels and undermine the long term objectives of the CFP.

a. What should the UK aim to achieve from this negotiation?

- Better control over fishing in UK territorial waters.
- Maintenance of sustainable fishing limits.
- A structure on how to agree fishing opportunities in the future for shared stocks with EU member states.
- Maintained access to the common market for fisheries products.
- More freedom to decide on management objectives suitable for the UK's fisheries.
- A review of relative stability.

2. Is it in the UKs interest to restrict access to UK waters for foreign vessels?

Possibly if the UK is unable to apply its own conservation measures to EU flagged vessels. However, national interest (in respect of access to fish stocks) could be compromised by reciprocal restrictions to other EU MS waters.

a. What impact could that have on reciprocal access rights and UK fishermen?

Access to EU waters could be denied and UK vessels may be forced to comply with EU and CFP regulations if fishing in waters where reciprocal rights apply.

b. Which UK and non-UK Exclusive Economic Zones (EEZs) are most important to the UK fishing industry and which should the UK prioritise continued access to?

3. Should the UK seek to preserve access to free trade in fish?

Yes. The UK is overwhelmingly reliant on the export of UK fish products and the import of fish products from the EU and elsewhere. The EU negotiates agreements on behalf of the EU and the UK will not therefore be in a position to agree trade agreements with individual EU MS.

a. What trade-offs would likely be necessary in order to preserve access to free trade in fish and seafood?

This is about perceived and actual negotiating strength. If investigation shows that the UK is likely to be able to profitably sell its fish outside the EU, then the EU will have little leverage.

4. What approach to achieving Maximum Sustainable Yield (MSY) and sustainable fisheries would be in the UK's best interest outside of the CFP?

For shared stocks the UK cannot achieve MSY on its own. Moving more quickly towards it (assuming this involved limitations on fishing opportunities) than the EU would be perceived as putting the UK fishing fleet at a competitive disadvantage. In addition, the UK would not benefit from higher yields or increases in fishing opportunities if the EU moved at a slower pace towards achieving MSY.

Similarly, for shared stocks, if the UK chose to move more slowly towards MSY (and was not bound by the CFP's legal obligation to reach it by 2020) then EU MS fleets could be disadvantaged. This could result in penalties for the UK in terms of access to the EU market or in the agreement on fishing opportunities for shared stocks.

It is therefore in the national interest of the UK to ensure that MSY is reached as quickly as possible in conjunction with the EU.

N.B. achieving MSY should be regarded as the next step in moving to a well-managed fishery, and not the end goal. MSY alone will not enable the UK and Europe to maximise the benefits to society. We should look to other examples around the World where an increased prioritisation of recreational fishing and higher stock levels have produced outstanding benefits, for example the US Striped Bass fishery.

a. Should the UK continue to co-ordinate Total Allowable Catches (TACs) and quotas with the EU and neighbouring countries?

Yes, almost all stocks fished by the UK are shared with at least one other EU MS. Agreement on fishing allocations is critical to avoiding over-fishing that over the longer term destroys fisheries and the benefits they can deliver.

b. To what extent should the UK preserve current TACs and quotas?

Until a fully detailed alternative system is established we see no alternative but to maintain the current system of TACs and quotas. An alternative system could look like the agreement Norway has with the EU where fishing opportunities are based on the time stocks spend in territorial waters. However, the dynamic nature of fish stocks – and the changing nature of fish stock distribution due to climate change (such as the Northerly move of mackerel stocks over recent years) – have highlighted that this approach is far from ideal.

c. Could, or should, the UK seek to renegotiate the relative stability key?

There would be benefits and draw backs for the UK should relative stability be renegotiated. Whilst the prospect of doing this is attractive to try and redress the perceived unfairness of national quota allocations, which were agreed when the CFP was formed, any change to relative stability would only be achieved with the cooperation of the EU. This would create turmoil as relative stability has underpinned the CFP since its inception. Unilateral renegotiation of relative stability by the UK would only result in unsustainable fishing.

5. What opportunities and constraints will affect the UK's ability to achieve its priorities and objectives in negotiations about a future EU-UK relationship regarding fisheries?

- The quality of the UK's fisheries negotiators and the quality of their preparation.
- The extent to which the UK accepts that access to the EU market is required and that the EU would realistically cut off its own nose by denying the UK access.
- There is very real concern that fisheries will be used as a pawn in negotiations with the EU and will be used to satisfy successful negotiations in other, more important, policy areas.
- The fact that almost all stocks exploited by the UK are shared with at least one other EU MS weakens the UK's position. Comparisons are made with Norway; however, the geographical isolation of Norway from other EU MS makes it much easier for Norwegian fisheries to be managed in isolation.

6. What obligations to co-operate on fisheries management exist under international law?

This can better be addressed by others.

a. How will this affect the UK's ability to restrict access for foreign vessels to the UK?

b. To what extent will historical access rights affect the ability to restrict foreign vessels from accessing UK waters, or other countries' ability to restrict UK access to their waters?

c. Will the UK be able to restrict access for vessels that are UK based, though owned by an EU company before and after Brexit?

7. What type of relationship with the EU and neighbouring countries would be preferable for securing effective regional management and co-operation?

Since the EU is the most important decision-maker on fishing policy that impacts the UK, the UK needs to remain as close to the EU decision-making process as possible. At the same

time, the UK (and the EU) need to be clear of the UK's potential to cease sharing its own waters. Brexit will enable the UK to establish similarly close direct relationships with other important fishing nations.

The cooperation of the Member State groups, such as the Scheveningen Group, will be of increased importance in ensuring that regional management is successful. All parties will have to consider how regional areas, such as the North Sea, are managed in the event that both Norway and the UK are not EU members. It would not make sense, for instance, for the North Sea Advisory Council, consisting of only EU MS, to be providing advice to the Commission in the absence of input from Norway and the UK.

a. With whom should the UK seek to establish bilateral relationships?

Presumably with any non-EU member state with which the UK has access to their waters currently through EU third-party agreements. This would include Norway, West African states, Russia and any other long distance fleet fisheries where access to fishing opportunities has been agreed through EU membership.

b. What type of governance framework could the UK pursue?

The UK should build its own governance framework, with the US Magnuson-Stevens Fishery Conservation and Management Act (MSA) 1996 as a guide.

The objective must be to maximise the benefits to society as a whole, rather than accept the current sub-optimal results from over-fishing and unsustainable forms of fishing.

c. What approach to dispute resolution could be desirable?

8. Which regional organisations, advisory bodies and scientific communities should the UK prioritise access to?

To include, but not be limited to:

- ICES
- OSPAR
- UN FAO
- Any RFMOs where the UK's membership has been through the EU
- EU MS groups (such as the Scheveningen Group)
- North East Atlantic Fisheries Council

a. Once the UK leaves the EU, could it uphold its membership of such organisations?

Where the UK is a member of such organisations through the EU being a member (and the EU negotiating on behalf of MS), the UK would need to apply for individual membership. In most cases this should be achievable but could take considerable time (and expense) and leave the UK in a weaker position than it may have been through negotiating or accessing resources as part of the EU block. However, ultimately, the terms of membership of these organisations will depend on their attitudes towards the UK leaving the EU.

9. What type of relationship with the EU would best suit the UK's interests?

The UK shares, and always will share, access to fish stocks with other EU and non-EU states. This is a function of the UK's geographical position in Europe and the fact that migratory fish stocks do not respect national borders or territorial waters.

As a result, the UK's national interest will be best served by having a healthy, collaborative and coordinated relationship with the EU in order to ensure that fish stocks in European waters (not just EU waters) are managed sustainably, restored to maximum productivity and deliver benefits to society.

10. What could the UK learn from the fisheries relationships between the EU and the Faroe Islands, Greenland, Iceland and Norway?

Area-based arrangements – such as those the EU has with Norway – are complex and difficult to agree due to the dynamic nature of fisheries. The long-running disagreement over mackerel was an example of how such arrangements can break down if the distribution of stocks move or the territorial waters of countries change.

Access to UK waters by EU flagged vessels would probably have to be permitted in order to maintain access to important EU fishing grounds.

Unilaterally allocating fishing opportunities leads to unsustainable fishing and as a result a close relationship with the EU, not dissimilar to the existing arrangements, may well be the end result of negotiations.

a. What do these examples tell us of the UK's future ability to restrict access to UK waters while trading with the EU?

The UK is likely to want to maintain access to EU waters. If this is the case, then restricting access to UK waters may be neither achievable nor desirable.

b. What do these examples tell us of ways to achieve MSY and regional management?

Outside of the EU the UK may be subject to the same requirements as it would be as an EU member. Close working relationships with the EU and other non-EU countries will need to be developed. Regional EU bodies will not be able to manage stocks sustainably without including the UK in negotiations, and vice-versa.

c. What do these examples tell us about how to influence EU fisheries policy from outside the CFP?

Influencing EU policy from inside the CFP has been sufficiently challenging. It is perhaps too early to say as many examples of the influence non-EU members have had over the CFP predate the last reform of the CFP. Now the focus is on regionalized management there might be more opportunity for influencing the CFP at regional level where the UK has more targeted interests.

22 September 2016

Thomas Appleby — Written Evidence (FBR0012)

I. Which are the most urgent priorities for the UK's negotiations with the EU on a future relationship with the EU regarding fisheries and why?

a. What should the UK aim to achieve from this negotiation?

The UK should prioritise and fund:

- Legislative time for new Fisheries Acts in UK Parliament and those of devolved administrations;
- Training for its negotiators in fisheries management and law;
- The formulation of a policy for the UK fisheries post Brexit; the closer that policy mirrors the current practice in the EU law the easier it will be to implement and negotiate; and
- Adequate representation of the devolved administrations in its negotiations; the majority of the UK fishery is in Scotland so Scottish representation is particularly important. The UK will also need to be sensitive to the needs of the UK Overseas Territories and Crown Dependencies.

2. Is it in the UKs interest to restrict access to UK waters for foreign vessels?

Unable to make informed comment

3. Should the UK seek to preserve access to free trade in fish?

The vast majority of shellfish, as well as much of the whitefish landings, either live, fresh or processed are exported to the EU. If the EU imposes a tariff on that trade there could be serious economic consequences.

4. What approach to achieving Maximum Sustainable Yield (MSY) and sustainable fisheries would be in the UK's best interest outside of the CFP?

There are conflicting definitions of the term Maximum Sustainable Yield. This is important since under international law a coastal state only has fishing rights to MSY and no further in its EEZ.¹ A coastal state also has a duty to restore stocks to MSY if they are over-exploited.²

It should be considered that UK marine institutions such as CEFAS³ have had extensive involvement in the design and implementation of scientific policy on European fisheries management. Great care needs to be exercised in any exit negotiations to:

- Safeguard the UK's world leading scientific position by continued involvement in European fisheries management, design and implementation;
- Ensure funding to these institutions is continued; and
- Recognise that much EU policy originated in the UK and the danger of hypocrisy in seeking to overturn a position the UK itself proposed.

¹ United Nations Convention on the Law of the Sea (UNCLOS), Article 61.

² Ibid.

³ Centre for Environment, Fisheries and Aquaculture Science.

a) Should the UK continue to co-ordinate Total Allowable Catches (TACs) and quotas with the EU and neighbouring countries?

For many stocks it is difficult to anticipate a situation where the UK did not co-ordinate with its neighbours. It is a legal requirement under UNCLOS⁴ to undertake such co-ordination where stocks straddle national boundaries. This is based on sound sense; the over-exploitation of a fishery either involves stealing fish from the adjacent coastal state or the next generation. Co-ordination and a shared approach is the only tenable way to manage the resource to avert a 'tragedy of the commons' or 'race to fish'.

b) To what extent should the UK preserve current TACs and quotas?

UNCLOS makes reference to continued access by those states which have previously enjoyed fishing within an EEZ.⁵ Within its 6 – 12 mile limit the UK also permits access by third party states under the European Fisheries Convention of 1964. Both of these access arrangements are obligations which are not mandated by the Brexit vote as they stem from international rather than European law. (For further discussion on this see post)

Domestic quota is allocated by the UK Government and the devolved administrations. This is a muddle and has been subject to 2 judicial reviews in recent years.⁶ Quota has been traditionally allocated on the basis of 2 years' track record. Defra has permitted the sale and lease of quota to third parties. As it stands it is not clear what property rights (if any) UK fishing businesses have in quota, nor in what capacity the UK administrators own the UK's fishing rights.

The environmental campaign group Greenpeace have recently raised serious concerns over the concentration of quota ownership into the hands of a few businesses, many of them foreign (for instance 44% of English quota is in foreign hands).⁷ It is a problem which is (far too slowly) being addressed by Defra, and there has been a recent consultation into Scottish quota too by the Scottish Government.⁸ In both cases though the allocation of UK quota by the UK administrations falls well short of the expected standard for the allocation of public property to the private sector set elsewhere in government and requires review.⁹

A report by the Agriculture Select Committee in 1999 recommended reform of domestic quota management but no significant action was taken.¹⁰ UK quota management remains a major source of concern among fishermen particularly when allied to the landings obligations which will require fishermen to have quota for the stocks they land.

⁴ United Nations Convention on the Law of the Sea, Article 63.

⁵ Ibid, Article 62.

⁶ United Kingdom Association of Fish Producer Organisations v Secretary of State for Environment, Food and Rural Affairs [2013] EWHC 1959 (Admin) and R ex parte Greenpeace v Secretary of State for the Environment, Food and Rural Affairs [2016] EWHC 55 (Admin).

⁷ Greenpeace (2016) Investigation: Big Fish quota barons squeeze out small scale fishermen. Available from: <http://energydesk.greenpeace.org/2016/05/15/investigation-big-fish-quota-barons-squeeze-out-small-scale-fishermen/>

⁸ Scottish Government (2014) Consultation on the Allocation of Scottish Fishing Quotas. Available from: <http://www.gov.scot/Topics/marine/Sea-Fisheries/management/17681/allocationofscottishquotas>

⁹ Appleby, T. (2013) Privatising fishing rights: The way to a fisheries wonderland? Public Law. pp. 481-497.

¹⁰ Select Committee on Agriculture (1999) Eighth Report: Sea Fishing HMSO, at 101. Available from: <http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo011204/text/11204w32.htm>

Doing away with quota altogether for many stocks will probably be unfeasible because of the international nature of the allocation and the issue of straddling stocks. If a different ‘currency’ in fisheries allocation is to be devised it would need to be at the supranational level to avoid international incident for many species. The role of UK science in devising the current system needs also to be recognised.¹¹

There are some possibilities however for a differing approach. The EU definition of MSY as the “highest theoretical equilibrium yield¹²” probably does not meet the international legal requirement of the term – a highest ‘theoretical’ yield anticipates some risk factors in the calculations which may be excessive. More use could also be made of spatial management measures and no take zones¹³ to manage fish stocks than the current approach adopts.

c) Could, or should, the UK seek to renegotiate the relative stability key?

Relative stability itself was calculated by combining three elements – past catches, preferential treatment for EU regions particularly dependent on fishing, and losses of catch resulting from the exclusion of EU vessels from third party waters by the implementation of EEZ’s elsewhere in the world.¹⁴

Leaving the EU would inevitably involve renegotiating the terms of access to the UK’s EEZ. Under first principles it would be possible for the UK to exclude other member states from its waters and negotiate TAC on a different basis to ‘relative stability’ for those stocks which straddle international boundaries. It would be up to the UK to determine the metrics for this calculation, but they would be based around the fecundity of UK waters.¹⁵ There are undoubtedly opportunities but before grandiose promises are made there are two sets of constraints which would apply to this approach:

Legal Constraints

- UNCLOS does not permit the UK to exploit stocks beyond MSY and includes a duty to restore stocks¹⁶
- Claims could be made for underexploited stocks by those who had a historic interest (which would presumably include EU member states)¹⁷
- In the maze of international legal arrangement which predate the UK’s accession to the UK there may be additional bilateral or multilateral treaties which are still in force. The North Sea in particular has been a crucible for the development of fisheries and maritime law since the “mare liberum” and “mare clausum” debate between the Dutch lawyer Hugo Grotius and the British lawyer John Selden in

¹¹ The current international system owes much to the work of Sidney Holt and Ray Beverton, both British scientists.

¹² Regulation (EU) 1380/2013, Article 4,1(7).

¹³ Royal Commission on Environmental Pollution (2004) Turning the Tide. HMSO. Available from: <http://www.rcep.org.uk/reports/25-marine/documents/Turningthetide.pdf>

¹⁴ Churchill, R. EEC Fisheries Law pp 115 – 116.

¹⁵ UNCLOS, Article 61(1).

¹⁶ Ibid, Article 61(3)

¹⁷ Ibid, Article 62(2)

the seventeenth century. The European Fisheries Convention of 1964 would also persist for access in the 6 to 12 nautical mile limit unless revoked.

Practical constraints

- It is tempting to view the EU as ‘them’ and the UK as ‘us’, however as one of the largest fishing nations and the leading UK nation in terms of marine science, European practice has been developed with significant British input. This is particularly true for areas such as the calculation of TAC where UK science has traditionally played a lead role,¹⁸ but even contentious policies such as ‘relative stability’ were developed with significant British involvement.
- UK vessels would lose access to member state waters.
- The diplomatic damage (particularly to France, Spain and the Netherlands) could easily outweigh any financial benefits. Relative stability was not reviewed in the 2013 reform of the CFP probably because it would open a Pandora’s box.

In respect of all the changes Brexit may bring about it must be recognised that the CFP has started to work¹⁹ with many stocks at or approaching MSY, a firm commitment to meet MSY for all stocks by 2020 and high profitability among the UK fleet.²⁰ The unilateral declaration of higher catches by a non-member state has been a cause of allocating quota at beyond MSY in the past.²¹ There is a danger that in response to the UK excluding EU vessels from its waters pressure will be increased on stocks elsewhere by displaced EU vessels.

d) What opportunities and constraints will affect the UK’s ability to achieve its priorities and objectives in negotiations about a future EU-UK relationship regarding fisheries?

Constraints

Fisheries management in the UK is a devolved matter. Around 60% of UK waters are around Scotland, and Scotland did not vote to leave the European Union. To put this in context Scottish vessels landings into the UK were valued £386,782 million in 2014 against a UK total of £614,108 million; this amounted to 63% of the total landings.²² This raises political issues within the UK and does not give a strong democratic mandate for significant alterations to the current arrangements. It also means the UK Government should be particularly concerned about representivity of any diplomatic mission in this area. It then

¹⁸ See for instance the role played by the Centre for Environment, Fisheries and Aquaculture Science (CEFAS), Available from: <https://www.gov.uk/government/organisations/centre-for-environment-fisheries-and-aquaculture-science>

¹⁹ JRC Scientific and Policy Reports (2015) The 2015 Annual Economic Report on the EU Fishing Fleet (STECF 15- 07) p 386.

²⁰ Seafish (2016) Low fuel prices contribute to improvement of the UK fishing fleet’s economic performance. Available from: <http://www.seafish.org/media-room/press-releases/low-fuel-prices-contribute-to-improvement-of-the-uk-fishing-fleet-s-economic-performance>

²¹ Norway has decided to allocate mackerel at a higher metric than MSY which will inevitably put pressure on the stock See Carpenter, G. and Kleinjans, R. (2015) Landing the Blame: Overfishing in EU water 2001-2015 New Economics Foundation. Available from: <http://www.neweconomics.org/publications/entry/landing-the-blame>

²² Scottish Government (online) Scottish Sea Fisheries Statistics 2014. Available from: <http://www.gov.scot/Resource/0048/00484499.pdf>

raises the spectre of four different UK fisheries policies within the UK itself.²³ Devolution took place amid the backdrop of EU law providing the binding glue in fisheries law (and many other areas), removing EU law opens the door to widely differing approaches within the UK itself. It simply will not be a case of the UK seamlessly claiming its resources as some commentators suggest,²⁴ but four nations potentially squabbling over them.

Valuers at UWE and New Economics Foundation put the capital value of the current UK fishery at a little over £1 billion.²⁵ This means the current UK fishery does not have a significant financial value when compared some of the huge economic interests which will be affected by Brexit. Some fisheries commentators have made the point that the UK fishery may well therefore be used as a “bargaining chip” in the Brexit negotiations.²⁶ As a former commercial lawyer the respondent shares these concerns, particularly if Brexit negotiations are mishandled by the early operation of Article 50 of the Treaty of Lisbon which would place the UK in the very weak bargaining position..

As part of the Brexit debate the run up to the referendum very few concrete policies were discussed, one of the few which probably did have some scrutiny was the reallocation of funds which have traditionally been managed by the EU. The UK is set to receive £243 million in subsidy²⁷ from this round of the European Marine and Fisheries Fund. This fund is very important in the development and maintenance of the fishing sector – particularly the inshore fleet, which is expensive to regulate. Government has promised to maintain this funding until 2020²⁸ but there is no certainty beyond then for funding which has been traditionally protected through EU membership.

Opportunities

From years of mismanagement North East Atlantic fish stocks have started to recover – and this is perhaps the best metric for the performance of UK and EU fisheries management. So to some extent the fundamental principles of the CFP are sound.

Areas which need improvement are:

- Review of domestic quota allocation;

²³ EU Law underpins the concordat between the UK fisheries administrations on the allocation of fishing quota for instance. Available from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69547/pb13771-fish-concordat.pdf

²⁴ Pirie, M. (2016) A ten point plan for UK fisheries. Adam Smith Institute. Available from:

<http://www.adamsmith.org/news/catch-of-today-a-ten-point-plan-for-british-fishing>

²⁵ Appleby, T., van der Werf, Y. and Williams, C. (2016) The management of the UK's public fishery: A large squatting claim? Working Paper. University of the West of England. Available from:

<http://eprints.uwe.ac.uk/28855>

²⁶ Oliver, A. (28 July 2016) Brexit and the Fishing Industry, Fishing News.

²⁷ HM Government (online) European Marine and Fisheries Fund: How to Apply. Available from:

<https://www.gov.uk/guidance/european-maritime-and-fisheries-fund-emff-before-you-apply>

²⁸ HM Government (13 August 2016) Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU Available from: <https://www.gov.uk/government/news/chancellor-philip-hammond-guarantees-eu-funding-beyond-date-uk-leaves-the-eu>

- Review of performance of the Landings Obligation;²⁹
- Greater emphasis on safety at sea;³⁰ and
- Institutional recognition that the fishery is a public resource.

Areas where existing practice needs to be endorsed:

- Implementation of nature conservation legislation and reduction of fisheries' environmental footprint;³¹
- Maintenance of rural livelihoods;³²
- Increasing role of scientific leadership in fisheries policy and management;
- Continued successful implementation of measures to combat illegal fishing; and
- Use of transparent criteria for the allocation of fishing quota rewarding sustainable fishing practices,³³

e) What obligations to co-operate on fisheries management exist under international law?

The Brexit vote gave a social mandate for UK Parliamentarians to negotiate terms to exit the EU. It did not give a mandate for UK politicians to exit on unfavourable terms or to unilaterally derogate from international law generally. The difficulty for the Brexit negotiation team is that the UK has for the last 40 years complied with many of its international obligations via the EU, so it is hard to unpick where international law finishes and EU law starts, moreover in some cases EU law has represented the most practical way of implementing international law since fish do not respect national boundaries.

The international legal background for fisheries management is therefore to some extent fused with EU law. This position is made more complex because of the leading position the UK has played in both crafting international law itself and developing tools for the EU to apply that law, particularly the leading role of UK science.

a. How will this affect the UK's ability to restrict access for foreign vessels to the UK? Under international law there are six distinct areas of interest

- Baseline to 6 nautical miles;
- 6-12 nautical miles;

²⁹ See for instance this article about the effects of the Landings Obligation on the English south east fleet, Oliver, T. (2016) Half Catch Illegal under Catch Composition Rules Fishing News. Available from: <http://fishingnews.co.uk/2016/03/half-catch-illegal-under-catch-composition-rules/>

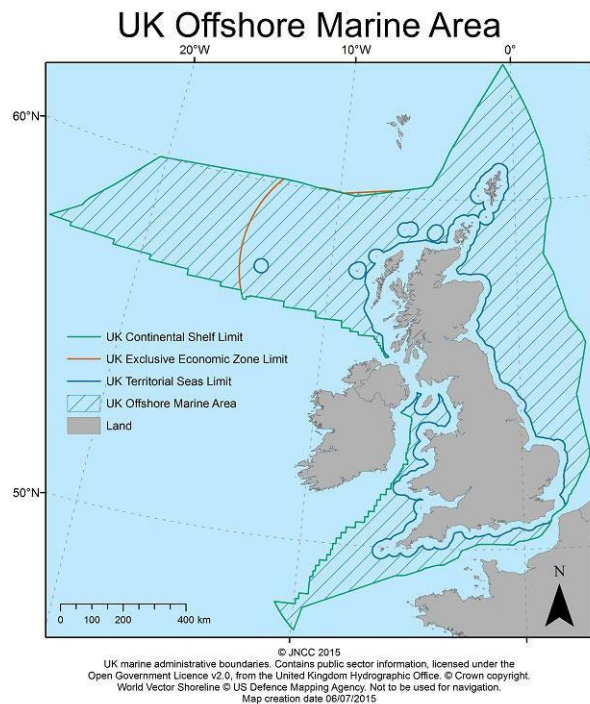
³⁰ Seafish (2016) UK Industry branded 'the deadliest catch' as shocking statistics reveal fishermen death. Available from: <http://www.seafish.org/about-seafish/news-and-events/news/uk-industry-branded-the-deadliest-catch-as-shocking-statistics-reveal-fishermen-death-toll>

³¹ HM Government (online) Revised approach to the management of commercial fisheries in European Marine Sites overarching policy and delivery. Available from: <https://www.gov.uk/government/publications/revised-approach-to-the-management-of-commercial-fisheries-in-european-marine-sites-overarching-policy-and-delivery>

³² Regulation (EU) 1380/2013, Article 2.

³³ Regulation (EU) 1380/2013, Article 17.

- 12-200 nautical miles or median line with adjacent coastal state (EEZ);
- The edge of the continental shelf beyond the EEZ;
- High Sea Fishery and Relations with Third Party States; and
- UK Overseas Territories and Crown Dependencies



0-6 nautical miles

Within the territorial waters of the 0-6 mile limit the EU has traditionally handed back management (with some exceptions – such as the landings obligation and quota) to the member state. Access arrangements should not be that affected by Brexit.

6-12 nautical mile limit

Within the 6-12 nautical mile limit the UK currently has treaty obligations to permit historic access under the European Fisheries Convention of 1964.³⁴ This predates both the UK's entry to the EU, and the subsequent development in international law of the exclusive economic zone. The UK would need to terminate these arrangement under the 1964 Convention, which requires 2 years' notice.³⁵ Further investigation would be needed though as to the reciprocal arrangement which UK vessels currently enjoy under this Treaty.³⁶ It should also be noted that revoking treaties of this nature will have diplomatic consequences

³⁴ European Fisheries Convention, 1964. Available from: <http://sedac.ciesin.columbia.edu/entri/texts/acrc/fish64.txt.htm>

³⁵ 36 Ibid, Article 15.

³⁶ One interesting point is that it was the UK who brokered this Treaty and would therefore need to give notice to itself

in bilateral relations over and above those which will be part of the Brexit discussions. To date access and management arrangements in this area have been under the auspices of the CFP.

EEZ

Within the 12-200 nautical mile limit under EU law there are two core principles delimiting access;³⁷

- Equal access for all member states fleets' to EU waters outside the 12 nautical mile limit
- The adoption of a policy which maintains 'relative stability of fishing activities' in relation to allocation of Total Allowable Catch – (quota at allocation at the member state level)

The constraints and opportunities concerning relative stability are set out at 4(c).

Outside the EEZ to the edge of the continental shelf

There is an area outside the EEZ on the Rockall Bank which is still within the area where UK claims sovereign rights on the continental shelf. The area is treated as high seas in for most commercial species but under UNCLOS the UK can claim sovereign rights for sedentary species. These rights are not qualified in similar terms to the rights in the EEZ. According to Churchill and Owen³⁸ "It is currently unclear whether the outer continental shelf is included within the meaning of community waters." The 2013 CFP reforms do not seem to have explicitly altered that position.³⁹ There would not appear to be a great deal of commercial fishery interest for sedentary species in this area, so it is likely to be inconsequential in terms of the Brexit negotiations.

High Seas Fishery and Relations with Third Party States

At present membership of international organisations except where the UK represents its overseas territories (See post) is generally via the EU. The EU controls agreements with third party states to represent the EU distant water fleet and has negotiates on behalf of EU members in some of the high seas fisheries. So for instance in the North East Atlantic Fisheries Commission⁴⁰ the UK is represented by the EU. Denmark has representation but only for Greenland and the Faroes (neither of which are EU members).

UK Overseas Territories and Crown Dependencies

Most of the UK's Overseas Territories are not in the EU and therefore their fisheries are managed independently either by the Territories and Dependencies themselves or the Foreign and Commonwealth Office. It should however be noted that the marine areas adjacent to these areas are hotly contests and carry a disproportionate level of political sensitivity. Any negotiations relating to Gibraltar, the Sovereign bases on Cyprus or the Channel Islands in particular need to be handled with exceptional sensitivity.

³⁷ Churchill, R. and Owen, D. EC Common Fisheries Policy pp 9-10.

³⁸ Churchill R. and Owen D. (2010) The EC Common Fisheries Policy Oxford University Press, p.65.

³⁹ Regulation (EU) 1380/2013, Article 4(1).

⁴⁰ North East Atlantic Fisheries Commission (online) What is NEAFC? Available from: <http://archive.neafc.org/about/neafc-faq.htm>

b. To what extent will historical access rights affect the ability to restrict foreign vessels from accessing UK waters, or other countries' ability to restrict UK access to their waters?

For the EEZ on first principles it seems clear – indeed it was the whole point of the 200 mile limit - that historic access could be cancelled. It was this approach (one which was not supported by the British) which led to the collapse of the British distant water fleet off Iceland during the 'cod wars' when Iceland refused to allow continued access to its waters. There may be some argument raised under Article 62 of UNCLOS⁴¹ for access by vessels if the UK does not have capacity to 'optimally utilise' its fishery resource, but permitting such access under those circumstances would undermine the reason for removing foreign vessels in the first place.

The 6 -12 mile limit and beyond the EEZ are under different international legal regimes. (See also response to 4(c).

c. Will the UK be able to restrict access for vessels that are UK based, though owned by an EU company before and after Brexit?

Current EU rules permit the UK to demand a 'real economic link' to stop foreign vessels obtaining TAC allocated to the UK by simply buying British fishing vessels. These rules are hedged in by the European Court decision in *Factortame*⁴² and other cases⁴³ which struck down the restrictions in the Merchant Shipping Act 1988 limiting nationality of owners of fishing vessels on the grounds that it breached the freedom of establishment principle. The Court permitted a requirement for a fishing vessel to be managed and operated from within the UK (hence the development of the real economic link), but found that companies from other member states could still exercise control from a decision-making centre based elsewhere within the EU.⁴⁴

In practice this would make it difficult for Defra to maintain express control under EU rules prohibiting foreign ownership of UK vessels and quota. However, had Defra chosen to, there are other ways around this, such as maintaining control of quota and vessel licences (so they have no inherent value and thus cannot be bought and sold by UK or foreign interests) and developing maximum levels of quota ownership which would not have been discriminatory.

It should also be noted that such a position is extremely rare in the UK where foreign ownership of British business has been a central plank of successive British Governments' policy and the whole armoury of company law and governance in the UK favour absentee (whether by domestic 'landlord's' or shareholdings) ownership. The UK aquaculture industry, for instance, started as small locally owned businesses but is now dominated by the Norwegian company Marine Harvest.

⁴¹ UNCLOS, Articles 62(2) and (3).

⁴² Case 2-221/89 R v Secretary of State for Transport ex p *Factortame* [1991] ECR I-2905.

⁴³ For a good discussion of these cases see Churchill, R. and Owen, D. (2010) *The EC Common Fisheries Policy* Oxford University Press, pp. 206-207.

⁴⁴ *Ibid.*

In a sense the EU with its express policy of ensuring a fair standard of living⁴⁵ for rural communities has succeed (at least to some degree) of maintaining both the UK inshore and offshore fleets. This has been through agricultural policy tools rather than express restrictions on ownership. The UK could impose restrictions on foreign ownership if it left the EU but would it? A recent article by Philip Booth on Conservative Home⁴⁶ shows how strong and pervasive the arguments of free marketers are. In reality for a fishermen in Cornwall whether their quota is owned by a Dutch or British ‘slipper skipper’ it will make little difference to active fishermen and new businesses if they have to rent quota from elsewhere.

f) What type of relationship with the EU and neighbouring countries would be preferable for securing effective regional management and co-operation?

a. With whom should the UK seek to establish bilateral relationships?

The EU will remain the UK’s most important partner for the foreseeable future. The EU is a stable economic platform in an increasingly unstable world. International arrangements can be much more complicated, the Scottish mackerel fishery established a good trading relationship with Russia which came to an abrupt halt with sanctions on that country.⁴⁷

b. What type of governance framework could the UK pursue?

This is an impossible question at this stage– the first point will be to establish within the UK how fisheries management will work following devolution – only then can a concerted approach be made externally.

c. What approach to dispute resolution could be desirable?

This depends on the shape of the external CFP and in particular whether access is maintained by foreign vessels. If it is the CFP should remain in similar form to the present system – with the Commission and Council of Ministers (not the EU Parliament assuming the UK is no longer represented there) settling issues via negotiated settlement. Whether the European Court of Justice maintains its current role is important too, if the UK leaves the EU it would be important to assess whether its judgments were binding, persuasive or had no status in British law.

The ECJ has issues some seismic judgments in this area and has tended to be expansionist in its view of EU law. Article 102 of the 1972 UK Treaty of Accession states:

“From the sixth year after accession at the latest, the Council, acting on a proposal from the Commission, shall determine conditions for fishing with a view to ensuring protection of the fishing grounds and conservation of the biological resources of the sea”

This wording was interpreted by the ECJ to confer exclusive competence for fisheries management to the EEC.⁴⁸ While it may have been desirable for the UK to enter the CFP it is difficult (now) to envisage that such a diplomatically important step in fisheries

⁴⁵ Consolidated Treaty of Functioning of the European Union, Article 39(1)(b).

⁴⁶ Booth, P. (2016) How to run our fishing policy after Brexit Conservative Home. Available from: <http://www.conservativehome.com/platform/2016/08/philip-booth-how-to-run-our-fishing-policy-after-brexit.html>

⁴⁷ BBC(online) How sanctions are hitting UK businesses. Available from: <http://www.bbc.co.uk/news/business-30209319>

⁴⁸ Case 804/79 Commission v United Kingdom.

management should have been driven by the Court. The ECJ also struck down the Merchant Shipping Act 1988 which sought to ensure British fishing vessels were owned and controlled by British operators.⁴⁹ This approach (see earlier) is, at least in part, responsible for UK TAC being allocated to other member state's vessels.

Courts will always be involved to settle contentious issues and perhaps this is a case of shooting the messenger rather than the message, but it is unfortunate that two of the most important aspects of EU fisheries management were decided by the ECJ rather than diplomatic consensus. This may just demonstrate the scale of the task facing the UK negotiators in the absence of a formal dispute resolution mechanism.

If the UK moves away from shared access, the arbitration arrangements would be less complex and should sit within the preserve of independent fisheries science to resolve issues of MSY.

d. Which regional organisations, advisory bodies and scientific communities should the UK prioritise access to?

Unable to make informed comment

e. Once the UK leaves the EU, could it uphold its membership of such organisations?

The UK will have to join, fund and train staff for appropriate representation on these bodies. The temptation will be to act unilaterally which will have potentially significant costs both diplomatically and for the fish stocks.

g) What type of relationship with the EU would best suit the UK's interests?

The referendum debate was exceptionally poorly conducted and contaminated with what Lord O'Donnell called 'ridiculous claims'⁵⁰ made by both Remain and Leave campaigns. With the lack of any detailed planning for a 'leave' vote it is difficult to see how leaving the EU will significantly improve British fisheries. This is not because of the lack of potential theoretical advantage from removing foreign vessels and requiring British vessels only to fish UK waters.⁵¹ It is simply that the bureaucratic mountain involved for a relatively small industry has been underestimated by both sides, moreover the issue of devolution to Scotland, Wales and Northern Ireland turns an already complex problem into a Gordian knot. There is no guarantee that a paper advantage at the start of the debate translates into a real gain in practice and plenty of scope for the Brexit discussions to descend into an abyss of nationalism both within the UK itself and with other EU member states or for fishery gains to be bargained away because of pressing concerns elsewhere..

The best (and most attainable) outcome would be to end the austerity policy which has emasculated Whitehall of expertise and policy-making over the past 6 years and develop a proper fisheries policy which sought to maintain the environment, fishermen's livelihoods, developed safer working practices at sea and reversed the trend of UK quota concentrating into fewer and fewer hands. This could be achieved within the framework of the current

⁴⁹ Case C-221/89 R v Secretary of State for Transport ex p Factortame [1991] ECR I-3095.

⁵⁰ BBC (27 August 2016) UK could remain in 'looser' EU - Lord O'Donnell. Available from: <http://www.bbc.co.uk/news/uk-politics-eu-referendum-37202922>

⁵¹ See for instance Dominic Cummings (Vote Leave's Campaign Director) performance before the Treasury Select Committee. Available from: <https://www.youtube.com/watch?v=fjJShkGCa4c>

CFP. It is difficult to foresee a situation where the French, Dutch and Spanish sit back and blithely accept the UK removing foreign vessels from UK waters without punishing the UK elsewhere in the mammoth Brexit negotiations, particularly in the event of an early exercise of Article 50. Shared access on some basis is almost an inevitability.

As it stands both the UK industry and the fish stocks which support it are bound to face years of uncertainty. Such uncertainty is the enemy of many sound businesses and good environmental practice. Both the industry and its environment will need to be supported through some very difficult years ahead.

h) What could the UK learn from the fisheries relationships between the EU and the Faroe Islands, Greenland, Iceland and Norway?

Unable to make informed comment – but note the expertise of the Foreign and Commonwealth Office in respect of the UK Overseas Territories.

1 September 2016

Bertie Armstrong, Marcus Coleman, Hazel Curtis and Barrie Deas — Oral Evidence (QQ 12 – 21)

WEDNESDAY 7 SEPTEMBER 2016

11.45 am

Witnesses: Barrie Deas, Bertie Armstrong, Marcus Coleman and Hazel Curtis

Members present

Lord Teverson (Chairman)
Lord Cunningham of Felling
Lord Curry of Kirkharle
Viscount Hanworth
Duke of Montrose
Lord Rooker
Lord Selkirk of Douglas
Baroness Sheehan
Viscount Ullswater
Baroness Wilcox

Examination of Witnesses

Mr Barrie Deas, Chief Executive, national Federation of Fishermen's Organisations, **Mr Bertie Armstrong**, Scottish Fisheries Federation, **Mr Marcus Coleman**, CEO, Seafish, and **Ms Hazel Curtis**, Chief Economist, Seafish.

The Chairman: We will start our second evidence session into our inquiry into the effects of the UK withdrawal from the EU on the fisheries industry. Can I first make it clear this session is being webcast? We are also taking a transcript, which will be sent to you as witnesses, so you can bring to our attention any mistakes that have been made in the transcription. Members here will give any conflicts of interest or any interest they have in this subject when they participate. I am a board member of the Marine Management Organisation, so I have that interest. Perhaps I could ask you to briefly introduce yourselves, not just for us but for members of the public.

Barrie Deas: I am Barrie Deas, chief executive of the National Federation of Fishermen's Organisations, which is the representative body for fishermen in England, Wales and Northern Ireland.

Bertie Armstrong: I am Bertie Armstrong, chief executive of the Scottish Fisheries Federation, the umbrella trade organisation dealing with the catching sector in Scotland.

Marcus Coleman: I am Marcus Coleman, I am the chief executive officer of the Sea Fish Industry Authority, otherwise known as Seafish. We are a non-departmental public body with about 80 staff working across the UK. We are there to support the industry and to help it be profitable, sustainable and socially responsible. I am here today with my colleague, Hazel Curtis.

Hazel Curtis: I am Hazel Curtis, I am chief economist at Seafish. I have worked there since 2000. My team collects data from the industry—sets of accounts, business information and so on. We pool that with official government fisheries statistics so that we can create a robust and independent evidence base and conduct economic analyses, economic evaluations, impact assessments and so on. We give expert fisheries economics advice to the industry, to Governments in the UK and to the EU. I am a member of the European Commission's scientific and economic committee for fisheries.

Q12 The Chairman: Thank you. We have a good panel here. Let me start with a broad question. In your view, what are the opportunities and challenges for the fishing industry of leaving the European Union? What are the UK's key interests and objectives for that future fisheries relationship with the EU? Does this give us an opportunity for any new type of, or fundamentally different, fisheries regime from the one we have at the moment? We have a specific question later on about this, but we are also interested in the differences there might be in the different regions of the United Kingdom.

Barrie Deas: We had a referendum, and the UK will be leaving the EU at some stage, so we will be leaving the Common Fisheries Policy. The UK will then be responsible for managing its fisheries resources out to the 200-mile limit or—the median line. We will be subject to the UN Convention on the Law of the Sea. That will be the legal baseline as we understand it, which requires co-operation where stocks are shared, but the form that co-operation takes seems to be quite loosely defined, so there seems to be scope for different forms of management. Since shortly after the referendum our organisation has been working to define what we would like to see out of this, both in terms of the transition and the post-Brexit regime. We see a number of important opportunities. The main one is an opportunity to move away from the Common Fisheries Policy, which has not covered itself in glory over its history; it has been overcentralised, with one-size-fits-all blanket measures. To be fair, those deficiencies have been recognised even within the Commission and the system, and there has been a move away from that one-size-fits-all approach, but over the years it has tended to generate a lot of unintended consequences and perverse outcomes and lead us

down a number of blind alleys. There is a great deal of relief in the UK catching sector that we have an opportunity to move away from that and design and deliver something that is tailored more to our fleets and is more responsive and dynamic than the very cumbersome decision-making system that we have operated under within the EU. We have to take account of the biological, legal, political and economic realities in all this, and our objective is always to have our ideas routed in the twin objectives of sustainable fishing and profitable fishing.

Leaving the Common Fisheries Policy will provide us with a number of opportunities to right some particular wrongs in quota shares and access arrangements. I think it is true to say that the fishing industry was not a high priority for the 1972 and 1983 agreements, but I think that has changed. My perception is that fishing has a political priority and is highly visible and almost emblematic, and that there is the expectation of a significant amount of change. On quota shares, in general we would say that the UK share of stock should reflect the catches within the UK zone with deductions for currency of agreements and fishing opportunities outside UK waters and probably inevitably market access, too. We will have to look at the deal in the round. There are some gross anomalies in the quota share arrangements. For cod in the channel, the UK gets 9% and France gets 84%. That means that for 30-odd years our vessels have been forced to discard high-value cod on a monthly basis, which is the kind of anomaly in quotas that needs to be addressed. A lot of work needs to go into defining which shares need to be looked at, and that work is under way.

The Chairman: Could I ask you to go through the points very quickly, otherwise we will not get to the end of the session?

Barrie Deas: On access arrangements, we think there should be an exclusive 12-mile zone. Outside the 12-mile zone, we need some kind of collaborative management on shared stocks, and that is for discussion as part of the negotiations. It is important that we have market access on a free trade or preferential basis. That is also part of the picture. I will leave it there.

Bertie Armstrong: We have been characterising this as a sea of opportunity. I have the simplest of visual aids, if you will allow, Chairman. The blue area marked on this map I am holding is often a surprise to people who are considering this matter. It is the better part of the northern continental shelf and is our EEZ under international law, as Barrie has said. That gives us a very fine hand of cards, and that was removed from us in 1973. I do not think it was realised, when the UK's yet-to-be formed EEZ was turned over to common grazing,

what would happen to our indigenous industry. We now are in the position, unlike other coastal states under UNCLOS such as Norway and the Faroes, where more than half the amount of fish removed from our area, depending on how you count it—fish, weight or economic value—is removed by others. That is simply not correct, and we would wish to see that moving in another direction post-Brexit.

The Chairman: When you say “not correct”—

Bertie Armstrong: It does not reflect reality. In the beginning, everybody fished everywhere, which proved to be completely untenable. You have to give control somewhere, and the way of doing it under international law is in the EEZ, where you have responsibilities and rights for the exploitation of resource. That will change things mightily. The CFP is very much unfit for purpose, not because we do not like rules but because it is impossible for the system to achieve its purpose. Twenty-eight Member States going on 27, in co-decision with 751 MEPs, most of whom know nothing about fishing, puts an inordinate burden on the Commission to deal with a sort of rolling emergency. That is simply not fit for purpose. We could do very much better on sustainability and on sensible management. The landing obligation or discard ban is the most perfect example of a CFP gone wrong, where an unworkable law with a plausible-sounding and supportable objective simply will not work. The key to all this is access arrangements, and our strongest recommendation, which we have put in a detailed paper to the Brexit department, is that access arrangements are organised for other countries that wish to fish in the UK EEZ after Brexit. We could start, if you like, with the share of fish being static, but they would have to catch them elsewhere than our waters until such time as an arrangement had been made with us. That is a not so subtle a difference. In our strong opinion, you do not in the Brexit process organise access for all those who want it—there has been 40 years of distortion with that—you organise it afterwards. Allow them to have the fish, of course, but access is a matter of negotiation after Brexit. We are less nervous about market access than some, and we are not particularly shadowed by what we have been referring to as “project euro fear”. Markets are markets, and people have things to sell that other people want. Spanish fishermen do not buy Scottish langoustines because they think “There is a perfect market here and I will use that to buy my langoustines”. They want langoustines at a sensible price. We are sure, one way or another, that that can be organised.

On the other side of that coin, there will be other markets that are foreclosed to us, for example India, which will be opened up. So it is a huge opportunity. We can make the

management sustainable, sensible and rational. Much better access is the critical path, and the sooner we are shot of the CFP the better, not because we do not like rules but because it simply does not work as an arrangement for managing fisheries. That is what we see coming from Brexit. We have lodged a detailed paper with the Brexit department, and if the Committee would like it for your future work, of course we could lodge it with you as well.

The Chairman: Thank you. Does Seafish have a view?

Marcus Coleman: Yes. We have a very broad remit. We look at the catching sector, which we have already talked about this morning, but we also look through markets and ports into seafood processing, retail and food service, so we are looking at the whole “catch to plate”—the term we sometimes use for that. It is significant that we estimate that there are somewhere between 110,000 to 120,000 jobs in that sector in the UK. There are around 11,000 fishermen, but there are also at least 13,000 people in the processing industry, as well as 85,000 people employed in our good old fish and chip shops up and down the land in that part of food service sector. The sector is worth £6.3 billion to the economy in the UK. We look at five primary areas of concern or opportunity.

The Chairman: You will need to go through them pretty quickly.

Marcus Coleman: I will do that very top level. One is what we have already talked about, fisheries management, so I will say no more about that. The second is international trade. Seafood is a very heavily internationalised trade. There are significant exports going out of here—0.9 billion into Europe every year more or less, 0.8 billion coming back from Europe—so any interruption in that trade arrangement is going to be a challenge, which is something to think about. There are more than 100 EU regulations that affect food service, food preparation, et cetera, and we need to think how that will work post-Brexit and the impact of that.

EU funding was touched on earlier this morning. Hundreds of millions in blocks of tranches are made available to the sector, principally through European funding routes, topped up by national supplements and some private investment too, so what will happen, how will that happen, and will that situation actually be improved for the sector post-Brexit are other key questions. I can give you facts and figures if you like.

Finally, access to labour is really important, not just within the fleets, which commonly make use of a lot of European labour and, beyond 12 nautical miles, non-EU labour as well, but in our processing plants. Anecdotally, a very high percentage of European workers are used on

the factory floor, as in many other agricultural or manufacturing sectors in the UK, to good effect. All those things need to be kept in balance as this negotiation is taken forward.

The Chairman: Thank you very much.

Q13 Lord Selkirk of Douglas: Can I ask two closely related questions? Given the different nature of the fishing industries in each of the devolved nations of the UK, how different are their needs in terms of the Brexit negotiations and outcomes? How should the devolved authorities work together best with their national fisheries representatives, and how should they be best integrated into the negotiations?

Bertie Armstrong: That is an excellent question. I am delighted to report that the industries are markedly different north and south of the border but there is very little mutual exclusion. The Scottish industry is characterised by larger scale fishing. That is not a “your fire engine is less red than mine” answer, it is a simple observation of fact. By way of volume and economic output, the Scots’ industry is the heavy end of the UK industry. There is no reason why the Administrations cannot work together to resolve any differences or mutual advantages internally. For Brexit, and most especially for the UK acting as a coastal state after Brexit, the size of the area creates a critical mass that gives you a very powerful negotiating position, which we would wish to retain and not have diluted by any—what you might call arm wrestling north and south. That can all be done internally if any of that exists. The size of the prize is large enough to mean that with the critical mass of UK waters we can do better for all aspects of the industry.

Barrie Deas: Devolved administration is an internal arrangement for how we manage our fisheries internally—quota management, licensing, that sort of thing—and that is governed by a fisheries concordat. It is important that we understand that the UK must take the lead in all international negotiations, and that arises from the constitutional situation where UK Ministers, whether Brexit or Defra or some other department of state, are answerable to this Parliament. Devolved Administrations are responsible to their parliaments and Assemblies. The point is that the devolved Administrations do not have a duty of care outside their own devolved Administration. That would be our concern and why we think it is very important that the UK in all aspects of the transition and post-transition takes the lead.

In terms of fleet diversity, it is very true that we have now an extremely long list of sizes of vessel, target species, fishing methods. I think it is very healthy to have large vessels and small vessels. In England, Wales and Northern Ireland, we tend to have more fishermen and more

vessels. As Bertie says, the weight of the landings tends to favour Scotland. That is all part of the mix, the diversity, which is one of our strengths.

Bertie Armstrong: With regard to the practical nature of management as a coastal state, when different areas have different weights of interest in any particular issue, it would make perfect sense for that Administration to take the lead. Notwithstanding what Barrie has just said, which is correct in pelagic fishing, large-scale fishing, of very large volumes of mackerel, you would expect the Scots to be consulted on that matter and for the UK position to be formed with that in mind. So there is a nuance on top of that answer.

Hazel Curtis: Two very quick additional points. One is that it is worth remembering that many of the larger businesses in the seafood industry in the UK have their ownership located in one home nation and perhaps their activities in another, or their ownership located outside the UK, so an individual business is not always purely a Scottish or English business. That is worth noting. Also, it is an opportunity to consider within the devolved Administrations what is wanted from the fishing industry, what benefits society wants from fishing: do you want to maximise jobs, do you want to maximise profits, do you want to maximise community ownership? These different objectives can be achieved by different management regimes, and they might be strongly reflected in the different regimes operating in Scotland from England, from Wales, from Northern Ireland. It is an opportunity to look afresh and be clear about what society wants to achieve from having a fishing industry.

Lord Rooker: A little follow-up to what Mr Armstrong said. On your map, which we have, I have not worked it out but the percentage of the blue area that is in the North Sea, the Atlantic, what I would call Scottish, as opposed to that tiny bit in the south-west that is English, must be 95% Scottish waters. You seem to be saying, or requesting, that the Scots do not just get stuff handed down by the English Defra ministry, because that is what it is: it is an English ministry. Whilst we are in the EU, it talks for the UK. When we are out of the EU it is a different ballgame altogether. From my perspective, as a complete outsider looking at the nature of the industry, it seems to me that the Scots should be calling the tune.

Bertie Armstrong: You would expect me to agree with that, and of course I do, but we are not saying that it should be our show. We are saying that due recognition should be given to where things have a heavier weight. The really central point is the strength of hand given by owning that whole area, which the UK does, and speaking as a coastal state for the whole of the UK. You would reasonably expect that Scotland's voice would be heard in the setting of

policy, not by way of bullying or any other pejorative term, but just to take account of the reality. That is what we would really like.

Lord Rooker: Have either of you, or you in particular Mr Armstrong, met the Fishing Minister since 23 June?

Bertie Armstrong: Yes, we have, and we have lodged a pretty serious paper as the base paper covering all the major aspects, which of course we can share with this Committee if the Committee wants.

Barrie Deas: I have no problem whatever with the way Bertie has formulated it. It is extremely important that all the voices around the table are heard. The constitutional point is who actually takes the lead in the negotiations and where the accountability comes back to.

Q14 Viscount Ullswater: In the referendum debate, some fishermen called for full control of UK waters, and I think I know where Mr Armstrong stands on that. Is that a desirable objective for a future relationship with the EU? What impact would it have on the structure of the UK fishing industry, and how might it affect reciprocal access rights for UK vessels in EU waters?

Bertie Armstrong: We are frightened stiff of being sold down the river again, if you like, because economically, in terms of GDP, we are nearly invisible. In the grand weigh-up or the balancing of benefits, we would wish to have our voice heard because of the serious impact on local communities, some of which have very little else, and the reconstruction of the UK as a leader in the sustainable catching of sea fish, sustainable seafood and its export. There will be a rough period, of course, because for 40 years it has been common grazing. Industries have been built up in other countries—Belgium, France, the Netherlands, Denmark, Spain—that depend on access to that blue bit. Those were the rules as they stood and they will not like any alterations to that. We are not suggesting that they all be turned out now. I was asked on “Farming Today” the question: “This does not happen in Norway, because nobody fishes in their water, do they?” The answer is: “Yes, they do. We fish in their water, but under the exact prescription made by Norway”, and that is what international law will impart to that blue patch for us. It will undoubtedly be a rough period, and I would imagine that every lever will be used by the fishing nations that presently benefit from said common grazing, and in our view—you would expect me to say this—it must be resisted. It will require some political will, because the prize is the prospect of returning us

to being a world leader in sustainable harvesting of seafood and its marketing. We can do much better.

Viscount Ullswater: We have always fished on the right-hand side of the median line running up the North Sea, the eastern side of that, in Norway's waters.

Bertie Armstrong: Yes.

Viscount Ullswater: And it has been a very profitable part of the fishing industry. Will that have to be given up?

Bertie Armstrong: There is no reason whatsoever why that should have to be given up. We, as a coastal state in our own right, could negotiate similar access rules that the EU presently negotiate, only on our terms. Be aware of this, if I may say so. We could do without access to that. The industry would not collapse if we did not have access to that, because that blue patch is so overwhelmingly productive and sized. Everybody else needs access to us, which is why more than half the fish coming from our waters is not fished by us. We have a fine hand of cards if there is the political backbone to chase this grand prize.

Viscount Ullswater: Thank you very much. That is a very important statement.

Barrie Deas: I would probably want to use more calibrated language. The reality is that most of our stocks are shared, so some level of shared management is not only desirable but inevitable. The question is: what form does that take? There are different ways. The EU already has shared management of most North Sea stocks with Norway, so it does not take too much imagination to say that instead of a bilateral we have a trilateral arrangement. I think you have to break it down into segments. At that level you have to agree exploitation rates: how much fish to take out of the sea, high-level objectives, long-term management plans. What you do not have to do is agree technical measures that apply within our zone. There is great advantage to having perhaps slightly different arrangements on either side as long as when EU vessels are fishing in our waters they are subject to those rules, and when we are in their waters we understand that we have to be subject to their rules, and similarly with Norway. I think that would work very well. Of course, when you come down to the Channel and the south-west, the situation is not quite as clear cut. We need access, we want access, to Irish waters, to French waters. We fish for hake in Irish waters, we fish for scallops in French waters. That is why the issue of access, the issue of quota shares and the kind of management regime, as well as market access, which is an important issue for us, will all be part of the deal that we need to think about.

The Chairman: That is a useful perspective. Thank you very much.

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Bertie Armstrong: All that is relevant and correct, absolutely, but the great difference in our negotiating position as a coastal state is that we can have access to French waters, of course, and they can have access to our waters of course, but on our terms. That is the difference. We do not need to—

The Chairman: I think we have that message actually. I do not want to hold your enthusiasm back, but I think you have got the message over.

Bertie Armstrong: Great.

Marcus Coleman: On the term “relationship”, that was in the question: business relies on relationships. I do not disagree with my colleagues to my right, there is opportunity to improve the current situation, but we need to be so careful about business relationships, and trade, EU funding, regulations. All that needs to be taken in the balance.

The Chairman: We are coming on to that, and I will ask Lord Rooker to pursue some of those.

Q15 Lord Rooker: I have no interests to declare, but I did once visit the Peterhead fish auction at about 6 am. All those fish heading down to Spain and the slabs in Paris within a few hours was a sight to behold. It was quite an incredible sight. There is this issue of balance, and I can see where you are coming from when you start off saying, “That’s ours and we will negotiate access”, rather than, “We are all in this together. We will divvy it up”. I can see a different starting point, but the same issue arises: at some point in the negotiations the Government will have to choose between controlling the waters, if you like, for foreign vessels and access to the single market to sell what is caught there, because we do not eat enough fish and it is clear that the fish is wanted elsewhere and we have to be able to sell that to maintain the jobs or get extra jobs. So there is going to be a balance and it is not going to be black and white. We are keen to know where you would see the line. We have also heard that there is not much prospect of extra jobs for Scottish people if we are going to keep everything manned by our colleagues from Europe. I do not know whether it is the plan to build a new industry, having got the blue area under control, to rebuild what was there before. Is that the aim? It is this balance. It is not that what you can fish for everybody wants, so they will have it on your terms because, and I am not an expert, there is always the question they will go somewhere else if the price is too high. How do you see the issue, as far as the Government is concerned, of having to give tariff-free access—and presumably you want tariff-free access—to the single market for fish and fish products?

Bertie Armstrong: That is another very important question. Two things are above the pay grade of the fishing industry. One is the eventual market arrangements the UK will settle on with the EU and the rest of the world, and the second is the immigration policy of the United Kingdom. As far as we are concerned in the catching sector, Europeans are used, of course, but we are rather hoping that with the enhanced circumstances that might prevail after Brexit, in the fullness of time as we evolve we would become less dependent on labour from elsewhere and have an industry attractive enough to grow our own. That would be very helpful.

On the market, we hope that will take account of the fact that we are the fourth or fifth biggest economy in the world, the second biggest in Europe, and that markets are two-way affairs. Walk down the supermarket aisle and see where the produce is coming from. We are rather hoping it will be less gloomy than that. Both those questions are above our pay grade, and I cannot give you a sensible answer as to where we think the balance will be because no one is going to ask us about that. We would wish to see a market arrangement that allows us to sell our fish at a reasonable cost. We would also like to see new markets explored urgently. A recent example is when the Russian sanctions appeared. We had a market slammed shut and the industry was able to find other markets. It is a sample of one, but it does not mean that lack of a single market will mean that there will be no market at all. That is not correct.

Barrie Deas: I agree with the supposition behind the question that this is going to be a balance, so when we want to renegotiate quota shares we want different access arrangements to our waters. That will be balanced against tariff-free access. There is a lot of work going on now and it is too early to get into the detail, but that is the raw reality: that we will have to find some sort of balance there.

Marcus Coleman: The most important thing is that we get as informed as we can about the different scenarios that could emerge, so that the Government, or whoever is negotiating on the industry's behalf, can go into those negotiations with their eyes open understanding what the implications might be in whichever sector we are talking about. The good thing is that we have some time to put that analysis into place, so that is what hopefully we will be looking at with other colleagues in the industry.

Bertie Armstrong: I am not absolutely sure that the debate on access to markets against quota distribution will be a pure one. The whole market issue will be decided at the macro-

level, and I think we delude ourselves if we think that fishing will necessarily shape any part of that debate.

Q16 Viscount Hanworth: I agree that the exclusive economic zone limits were not created solely or even primarily with fish stock management in mind, but, be that as it may, I would like to revisit an issue that has already arisen. I believe that approximately 19% of our catch is derived from Norwegian and non-European Union waters. The question is: how valuable is that catch to us? We have heard from Bertie Armstrong that we could do without access to Norwegian waters, but I am not sure that is the general opinion; I believe Barrie Deas has a very different opinion. Could we have the value of these waters to us examined more fully, as well as the value of the various reciprocal arrangements that we may have at present and the preservation of them?

Bertie Armstrong: Do you have some figures?

Viscount Hanworth: I would like to hear other opinions. I think I have understood yours.

Hazel Curtis: The value of catch from UK waters by UK vessels and non-UK vessels, and then the value of catch from other EU waters by UK vessels, is all subject to Member States' own data collection regimes, and Seafish has been in discussion with the MMO, Defra and Marine Scotland to establish an agreed method to establish those values in recent years. That analysis has not been done, because it was not terribly relevant when we were in the EU, so it is a new data analysis and collection exercise. We are hoping to demonstrate that, for instance, X per cent of Germany's pelagic catch comes from UK waters, or that X value from non-UK waters has been caught by UK vessels. All that is in the works at the moment, I am afraid, and we cannot give specific values at this stage.

Viscount Hanworth: How soon will you be enlightened?

Hazel Curtis: As I say, we are in discussion with the MMO and Defra. There are no definite plans established with publication dates yet.

Viscount Hanworth: So we are all working in the dark.

Bertie Armstrong: When I made the statement, which I believe is entirely correct from the Scottish industry's view, that we can do without fishing in Norway's waters, there have been periods of difficulty in negotiation when that has been the case for several months at the start of several years. We would of course wish to fish in Norwegian waters and reach an equitable bargain with other coastal states; such is the nature of fishing on the northern continental shelf. But I re-emphasise the point—and I know the nail has disappeared beneath

the level of the plank by hammering by me—that we will be in such a stronger position to negotiate these things satisfactorily.

Viscount Hanworth: Did you ever believe that others would buy this notion that we have every right to pre-empt our EEZ, which some people regard as doubtful?

Bertie Armstrong: In the progress of EEZs, and you are right in your timing of course, there were two fleets in the United Kingdom. One was the long-distance fleet, the predominant one, the big vessels from Humberside, Fleetwood and Aberdeen that fished up in the gaps, in the north, and on the declaration of the EEZs they died. That was the consequence of that, hard and nasty as that sounds. Our present fleet was what then was known as the inshore fleet. So there will be consequences of declaring an EEZ, of course. I am not saying that it will be the death of the rest of Europe's fishing industry—that will not be the outcome—but there will be consequences. We should remember that we are leaving the golf club. We should not insist on paying the fees.

Barrie Deas: The external waters fleets did not quite die, and we have a very important interest in fishing in Norway, both north of 62 degrees and south of 62 degrees on a reciprocal basis. That is why our benchmark in all this—we certainly see opportunities to improve things—is that we must make sure that we do not disadvantage any part of the UK industry as we go forward. Taking that as our benchmark gives us some sort of assurance that we are not taking up an extreme high-risk game, we have no interest in any kind of fish war, cod war or otherwise. What we want to do is come to a settlement that addresses the anomalies in the quota shares and gives us an exclusive 12-mile zone, which we should have had in the first place.

In terms of reciprocity, we have very little, if any, interest in other Member States' 12-mile zones, with the single exception of an arrangement around Northern Ireland, where the Northern Ireland fleets fish in the Republic's water, which pre-dates the CFP: the Voisinage agreement. Apart from that, that level of reciprocity just does not exist. We certainly have an interest in access to other Member States' waters and Norwegian waters, and that has to be part of the picture.

Viscount Hanworth: Thank you.

Q17 Baroness Wilcox: I must admit that I was and am part of the south-west fishery inshore fleet traditionally, and I am also involved with the experimental lobster hatchery in Padstow, Cornwall, and for that we are EU-funded. My question relates to the previous

question: to what extent should the UK co-ordinate total allowable catches and quotas with the EU and other European countries?

Bertie Armstrong: The volume of fish to be caught by everybody is set scientifically, and to put it simply it is an uncrossable line. Certain stocks, such as lobster, are not quotaed at all and are not subject to negotiation with anybody other than our own sensible management. Given that the global amount of fish is fixed and we have charge of our EEZ, the present arrangements of relative stability, which were a snapshot in time a long time ago and which have now passed into history—that is the basis of splitting, because you have to have some basis between the EU states—could be revisited by us, and the great lever for the re-visit is access. We could decide who had access once those figures were set. This could be set to advantage for all parts of the United Kingdom, and it would make sense to do so, not by bullying but by recognising that the situation has changed. A monumental decision has been taken, and that will create a different set of circumstances.

Barrie Deas: As I mentioned before, it makes sense to break this down into digestible chunks. Bertie is quite right that, in future, decisions on total allowable catches will be science-based and based on the recommendations, as they are now, but after that there are a lot of management decisions about setting TACs in relation to mixed fisheries and how to reduce discards, which need to be taken into account. It is also desirable to have long-term management plans so that we do not have to revisit everything every year, so we have a five year plan or something sensible. All that is sensible to do within bilateral or trilateral arrangements, which could have a regional dimension, and I would not rule that out. So there is setting the exploitation rates and the fishing mortality rates.

Below that, the technical measures—what kind of mesh size you use, what kind of twines you use; all that—is better done in the different zones by the countries involved. That would be a workable arrangement.

Hazel Curtis: Could I add a nuance to the setting of TACs based on scientific advice? The scientists answer a question they have been asked, so it is not some exogenously generated total allowable catch that scientists say there should be. It depends what question you have asked them, such as what fish stock size you want and how risky are you prepared to be. Are you willing to risk the stock going down? I think it is worth reviewing the example a few years ago of the mackerel stock. Mackerel started to come through Iceland a bit more, and Iceland decided to take 100,000 tonnes where it used to take 4,000 tonnes, or some such difference. It decided that it would risk the stock to that extent. That was its political

preference. So the total allowable catch is based on scientific advice, one would hope, but it is a political decision, and I think it is important not to lose sight of that. When you are negotiating, you first have to agree on a fish stock assessment, so do we agree what the stock size is, how big do we want it, and are we trying to grow it like the cod stock in the North Sea at present or keep it the same size that it is? Then, after you have agreed the sustainable annual harvest for an individual year, what are the international shares, what are the technical measures, and what are the enforcement and control measures that all the countries will accept?

Baroness Wilcox: Thank you. That is a very good answer.

The Chairman: I assume that everybody will say we should still use ICES as our scientific basis, is everybody agreed with that?

Hazel Curtis: That is pretty universally accepted, yes.

Q18 Lord Cunningham of Felling: A number of you have mentioned regional dimensions in all this and you have also said that you have been in touch with Defra and the Ministers in charge of negotiating our exit from the European Union. What kind of regional management models have you been suggesting to them would be in Britain's best interests in these new circumstances?

Bertie Armstrong: Do you mean in regard to our relationship with other coastal states or our regional relationships inside the United Kingdom?

Lord Cunningham of Felling: I mean in relation to other states—the people we will be negotiating with. I am asking you what model you would recommend the UK pursue. We are going to have some kind of management structure for our own regional waters, so what would it be like?

Bertie Armstrong: There is already a model for coastal states dealing with each other: EU-Norway and EU-Faroes.

Lord Cunningham of Felling: But we will not be in the EU, will we?

Bertie Armstrong: No, but it will then become UK-EU-Norway, UK-EU-Faroes, with the predominant, I say again, patch of water belonging to us and therefore the whip hand in the negotiations. That, in a nutshell, is the model.

Lord Cunningham of Felling: Barrie, it is good to see you again after all these years.

Barrie Deas: Indeed. I think you have to look at the fisheries concerned and who has jurisdiction. In the case of the North Sea demersal stocks, it would be trilaterals with the EU, UK and Norway. For the north-west waters, on the Atlantic side and the channel, that

would just be a bilateral arrangement, with the EU and Norway. For the pelagics, highly migratory stocks that go into international waters, coastal states agreements make sense. So it is horses for courses. In the case of western waters, where there are very complex fisheries, with highly mixed species and a lot of species, it might make sense to break the negotiations down into Irish Sea, Celtic Sea and Channel subsets, but the ultimate decisions would be made bilaterally or trilaterally if we are talking about harvest rates and those kinds of decisions. Any decisions about fleet policy, about technical measures, about enforcement and control, would be the UK for UK waters, the EU for EU waters, et cetera.

Lord Cunningham of Felling: Mr Armstrong, you have said more than once that we will be doing this on our own terms; that is the phrase you have used. The reality is that in negotiations, to get agreements, you have to be prepared to do a deal.

Bertie Armstrong: Of course.

Lord Cunningham of Felling: So the impression you give, that we could say, “Take it or leave it, these are our terms”, is not the reality, I would suggest to you, in these international negotiations.

Bertie Armstrong: I may have laid the wrong nuance on that. The circumstances that exist, of the UK as one of 12 Member States trying to influence the negotiating position of the EU for a, say, EU-Norway or coastal state, is a very different position from the one we would find ourselves in as the owner of that sea space. Of course it would be a question of give and take, but it must be recognised that the weight of argument deployed by the parties would shift monumentally in favour of us. I am not recommending that we become a bully; I am just recommending that due cognisance is taken of the size of our stakeholding, which would be very different.

Lord Cunningham of Felling: Do you think in these negotiations, to use your phrase “give and take”, we would have shared objectives in terms of the rules and regulations which applied?

Bertie Armstrong: We would have shared objectives in terms of stock health. The rules and regulations in our waters, as they are in Norway, for example, would be a matter for Norway in their waters and the UK in UK waters.

Lord Cunningham of Felling: I was thinking more of the European Union side of things.

Bertie Armstrong: This is in law, and unless somebody negotiates it away, this is what will happen. The regulations as they apply inside our EEZ will be the regulations as we decide them—as the UK decides them. That is the way it works and that is how Norway does it.

Baroness Sheehan: Could we have comments on the Greenland-EU deal and how that would reflect on the possible deal that the UK could have with the EU?

Barrie Deas: I think it is a partnership agreement with the EU, and the UK has some advantage from it. Quite a number of the stocks obtained by the EU at the moment are used as currency for other stocks. It is quite a complicated transfer arrangement. There are two dimensions. One is a fisheries dimension and then there is a development dimension which goes from the EU to Greenland.

Baroness Sheehan: I was talking not about how the current deal impacts the UK but about it as a possible model for the future deal that the UK could negotiate with the EU. As I understand it, they have had to make a number of concessions and yet still pay into the EU coffers.

Bertie Armstrong: It is the wrong model for us. As a dependency of Denmark and not inside the EU, it is a rather odd and distorted single example. The model that we would automatically gravitate to, unless someone decides otherwise, would be the model of Norway or the Faroes, in that we are a coastal state with responsibility for exploitation in our own zone.

Baroness Sheehan: So am I right in thinking that an EU-Norway model for fisheries would be acceptable to you?

Bertie Armstrong: The fact that the EU-Norway model exists where shared stocks are discussed and arrangements are made means that that model is suitable for an EU-UK-Norway model.

Baroness Sheehan: With all the conditions attached.

Bertie Armstrong: You need to be careful about separating what is dependent on what. Norway's relationship with the EU is what it is and may be reflected to a certain degree; it is not reflected to much of a degree in the fisheries negotiations. There is a wholly different question about what relationship the UK will have as a whole with the EU and that has yet to be decided before Article 50 is triggered. It would be wrong to connect that directly at this stage to fishing, in my view.

The Chairman: I am desperate for a short answer on this, if I can get it. You have talked about differences in technical measures and I understand that entirely; that is something clearly we would be able to do. However, in the more crowded waters in the channel, if you have different net sizes or whatever, and on one side you are not allowed to have a net size below a certain level even on your vessel—that is normally how it is controlled, because if

you have it there you will use it—do you not risk segmenting it so vessels cannot cross that line, and does that not get in the way of efficiency and making money? It is a genuinely open question.

Barrie Deas: On this kind of transboundary fishing, where you have one set of rules on one side and another set of rules on another, my presupposition was initially the same as yours, that this is going to be problematic, but the soundings that we have taken from our members is that it is a price worth paying, and as long as we know what the rules are on either side, we know what is involved and we know what we have to do. I received an email this morning from the north-east coast, where the Royal Navy is having problems interpreting the EU rules on farmed deep nephrops, so it's important to appreciate that we are not moving from something that is warm and efficient; we are moving away from something that is dysfunctional, and probably the sphere of technical measures is where it has been most dysfunctional.

The Chairman: That is useful, thank you.

Q19 Baroness Sheehan: Moving on to the funding that the EU provides to UK fishermen and specifically the European Maritime and Fisheries Fund, that will be withdrawn once the UK leaves the EU and will include loss of access to research and funding for sustainable marine management. I wonder if I could get your views on how important you feel the EMFF funding is for fishermen. Would you expect the Government to replace the funding?

Bertie Armstrong: I will make two observations. One is that, as I understand it, the UK is a net payer into the EU at present, so money is expended and then there is money coming back in a variety of investments and structural funds such as the EMFF. Therefore as a net payer—and I know public financing is nowhere remotely near pigeon-holed in this simple form—if more money is going out than coming in, theoretically there should be enough money to pay for those projects that you already value enough to have applied for EMFF money for. The other observation is that it is a very poor industry that depends on handouts for a lifeline. I am using deliberately provocative language. It is being used in “Project Euro Fear”: “Oh, my God, we are all going to die if we do not get the EMFF funding”. That is so much nonsense. It is almost the jam doughnut question: “If there is a jam doughnut and you are offering it to me, I would very much like it, but I am not depending on it for my survival”. We see the overall prize of the development of the UK fishing industry as the primary prospect here, and the loss of any funding is always regrettable but we are really rather hoping those projects that have value will continue to be funded by the UK Government.

Barrie Deas: Of course the fishing industry does not and never has received a direct subsidy like agriculture has done. Our feeling is that often the money from the European schemes that have been put in place over the years has been misdirected. If we are going to retain at least some of the money that currently goes to the EU for this purpose, we could design and deliver a more tailored approach to funding. The fishing industry is geographically spread and fragmented. That was the original rationale for the various fisheries funding schemes and that geography is still a reality. I would say it is important to us but it is not top of the list.

Q20 Lord Curry of Kirkharle: This question is to Seafish. We are very interested in the importance of the EU market to the UK fishing industry, the scale of it and how important access to that market is. Inevitably when we get into these tough negotiations, this is going to become part of the deal, so I am keen to hear your views on the scale of it. If there was the risk of loss of access or tariffs, how important would that be to our industry?

Marcus Coleman: To give you that perspective on scale, I have some figures here. For example, global seafood exports from the UK were £1.3 billion, of which 70% went into the European Union area zone, and £900 million into the European Union. Conversely, coming back to us in the form of imports, overall global imports of seafood into the UK are worth £2.66 billion, with about £830 million coming from the European Union, so about 30% of our seafood imports are coming from European Union Member States. On that basis alone, it is clear we are very dependent on that flow of trade into Europe and back into the UK and would not want any kind of interruption to that. The margins for some of our processors are very tight; our fishing fleet lands, as we have already heard, a lot of its fish into European markets. So there needs to be caution with all these actions. There is a need to be mindful of the particular barriers that would go in place, which could create issues locally in the UK around jobs, profitability, et cetera. In addition to that, obviously the EU negotiates trade arrangements and tariff arrangements with countries beyond the EU in many cases and, again, a not insignificant amount of trade is done outside the EU as well, so we need to be mindful of the impact there.

Lord Curry of Kirkharle: Are there specific species or sectors of the market which are more heavily dependent on the European market than others and which would have a very deep concern about this?

Marcus Coleman: There are indeed. I do not know if Hazel has those figures to hand. Certainly there is a tendency for the UK to export most of what it catches and to import most of what it eats. That is down to a number of factors, sometimes around product form

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and sometimes around national taste and preferences, and these things have built up over years and years.

Hazel Curtis: I think that is the main point. I can list different species—mackerel, nephrops, scallops, whatever you like—but the main point is that we export the majority of what we catch in UK vessels and we import the majority of what we eat in the UK, although when we are on holiday in Spain we will quite happily eat the seafood that we will not eat at home.

Viscount Ullswater: If we import much more than we export, what is the tariff placed on the fish we import?

Hazel Curtis: If we are importing from the EU, then my understanding is that we do not have tariffs.

Viscount Ullswater: We are not importing it all from the EU. What is the import from external sources? I think that you said £2.6 billion came into Britain.

Hazel Curtis: The majority of which is from the EU.

Viscount Ullswater: The majority comes from the EU, but what is the tariff placed on fish from outside the EU?

Hazel Curtis: I do not have exact tariff figures.

Baroness Wilcox: Canadian lobsters, for example.

Viscount Ullswater: What tariff are we frightened of?

Hazel Curtis: I am sorry, I am not a big tariff expert.

Marcus Coleman: We would have to come back to you on those. They vary around the world.

Q21 Baroness Wilcox: I have the last question. The basis for the question is that Seafish has begun assessing which EU regulations and aspects of the current UK-EU relationship in fisheries are most crucial to the industry. Does the industry as a whole have particular concerns relating to the UK-EU relationship or EU regulations that we should be aware of?

Marcus Coleman: Regulations, as I touched on earlier, are one of the big five areas that we need to be mindful of. It is not impossible that each of the devolved Administrations could decide to replace the current set of, let us say, 100 EU regulations with their own 100 regulations. I hope common sense would apply, but it is not out of the question. We need to be mindful and careful what we are wishing for on regulations. Equally, as we exit, there will be regulations that are currently being discussed and negotiated, so what do they mean for the UK? Do we adhere to those as long as we are in? Do we have to invest in the control and compliance measures which would be relevant to regulations being negotiated now or

should we be exempt from those? There are some questions on that. There is also a question on protected geographic interests. If my memory serves me, there are 65 different protected food groups in the UK, of which 10 are seafood/seafish related—Arbroath smokies, Cornish sardines, Fal oysters, Scottish farmed salmon, Scottish wild salmon, et cetera—and there are regulations that help those protections stay in place and help protect those markets and there is a question about how that will be taken forward alongside the regulatory element.

Baroness Wilcox: In that case, we are looking at work in action that you are doing now. I wonder whether when you leave, if the Chairman says so, you could think again about the question that I asked and come back with anything that would be useful, because you have half said it but you half have not. It would be useful for us, as I think the Chairman will accept, to know what it is you are most concerned about.

Marcus Coleman: Okay.

Barrie Deas: For the catching sector, leaving the Common Fisheries Policy will provide a huge opportunity to simplify the rules and that is a big prize. In doing so, it is very important that we recognise, notwithstanding the deficiencies of the Common Fisheries Policy, that since about 2000 there has been a huge reduction in fishing mortality and we have seen the stocks coming back up. Measured in terms of tonnage, about 80% of our stocks are at maximum sustainable yield, and in all this we do not want to move away from that, as we have a big interest in high-yield fisheries and keeping it like that. We want to simplify the rules but not lose the conservation advantage that we have gained over the years.

Lord Curry of Kirkharle: Are you aware of any EU legislation in the pipeline? The Government have not been able to answer this. What will we do about EU legislation in the pipeline? How will we implement it? Do we intend to demolish it? Is there anything in the pipeline you are aware of?

Barrie Deas: Yes. The big one is the landing obligation, the discard ban. I am guessing but I think it is the intention of the UK to see how far that will be implemented at EU level. It should be fully implemented by 2019. There are a lot of problems associated with that, particularly in mixed fisheries. Post-Brexit a decision could be made about whether we are going to follow the same kind of approach or do something different. Associated with that, there is a new technical measures regulation and there are multiannual management plans for the North Sea and north-west waters all in train, as well as the annual cycle of TAC setting. We have to keep all these balls in the air while we consider the Brexit aspects.

Bertie Armstrong, Marcus Coleman, Hazel Curtis and Barrie Deas — Oral Evidence (QQ 12 – 21)

Bertie Armstrong: We as an industry must work terribly hard to have plausible, sensible replacements in time. The default position of just taking that on and running it the way it always has been would be very silly and, in the case of the landing obligation, would be absurd.

Lord Curry of Kirkharle: Urgent work to be done.

Bertie Armstrong: Absolutely, urgent work to be done.

The Chairman: Thank you very much indeed. Landing obligations and discards are outside the control of industry, but it is a big task. It has been a really interesting session. We have had some very direct messages and some good information. We will have our second session on fisheries next week, when we have the Minister in front of us. I bring the public session to an end.

John Ashworth — Written Evidence (FBR0004)

I am a retired fishing gear designer and manufacturer. From around 1980 to 2005 I worked extensively on trawlers in many parts of the world, and especially around the UK. I was heavily involved with fish behaviour studies, technical separation design, wrote for the trade press a fortnightly conservation column, and I was the first to highlight discarding.

From my own sea going experience, there are two issues that clearly stand out:

1. Around the UK we have a mixed fishery unlike anywhere I have witnessed in the world.
2. The EU quota system, in the above mixed fishery, will never work for the following reasons.
 - a. because of the tide, currents, and varied weather patterns, around the UK, with the best will in the world you will not stop catching non quota species. Discarding rules might appear to satisfy those on shore, but it does not solve the problem at sea.
 - b. the present quota system criminalises fishermen. To survive you have to cheat.
 - c. to survive you also have to miss-report, completely destroying scientific assessment.

If Article 50 is invoked, at the end of two years, the EU quota, and the Relative Stability keys, cease to apply in the UK's 200 nautical mile/median line zone. To reinstate the same quota system in our EEZ would be an utter folly and disaster.

The answer lies in devising a system based on an allocation of time. In the UK's unique mixed and varied fishery, honesty has to be brought back into the equation, and until that happens, we are all guilty of destroying and under utilising this remarkable resource, that belongs to the British Nation/people.

31 August 2016

Professor Richard Barnes, Professor Robin Churchill and Dr Bryce Stewart — Oral Evidence (QQ 1 – 11)

Professor Richard Barnes, Professor Robin Churchill and Dr Bryce Stewart — Oral Evidence (QQ 1 – 11)

WEDNESDAY 7 SEPTEMBER 2016

10.35 am

Witnesses: Professor Robin Churchill, Dr Bryce Stewart and Professor Richard Barnes

Members present

Lord Teverson (Chairman)
Lord Cunningham of Felling
Lord Curry of Kirkharle
Viscount Hanworth
Duke of Montrose
Lord Rooker
Lord Selkirk of Douglas
Baroness Sheehan
Viscount Ullswater
Baroness Wilcox

Examination of Witnesses

Professor Robin Churchill, University of Dundee, **Dr Bryce Stewart**, University of York, and **Professor Richard Barnes**, University of Hull

The Chairman: Professors, Doctor, may I welcome you to the first of our evidence sessions on the UK's withdrawal from the European Union and its effect on the fisheries industry and sector? This is the first session. It is a fairly brief report, but obviously very important for the future in the areas that we look at, which are energy, environment, agriculture and fisheries. We will be taking a transcript of this evidence session. You will have an opportunity to look at that and correct it if there are any errors in it. We are also being broadcast and there is a live webcast which will be available on the parliamentary website in due course. I will ask Members to declare any interests when they ask their first question or make their first contribution. Can I make it clear that I am a board member of the Marine Management Organisation, so I have that interest? It would be useful if you would say a little bit about yourselves and why you are here so that we have that context and then we can go straight into questions. Dr Stewart, would you like to start?

Dr Bryce Stewart: I am Bryce Stewart. I am a lecturer at the University of York in the Environment Department. I have been working on biology and fisheries management for over 20 years and, specifically, on the management of European fisheries for over 10 years. At the start of this year, I was asked to be part of a report looking at all the environmental impacts of Brexit, as it has turned out, and my specialisation was fisheries, so that is why I am here today.

Professor Richard Barnes: I am Richard Barnes, a professor of law at the University of Hull where I specialise in fisheries, the international law of the sea and general environmental law.

Professor Robin Churchill: I am Robin Churchill. Until last Wednesday, I was professor of international law at the University of Dundee and am now emeritus professor as I retired last week. My particular interest is that I have done quite a lot of work and written quite a lot over the years on the legal aspects of the Common Fisheries Policy.

Q1 The Chairman: Thank you very much, gentlemen. I would like to start off with a general question and overview. What opportunities and challenges might arise for fishing and fisheries management from our exiting the European Union, and what are the key UK interests and objectives for a future fisheries relationship with the European Union? It is quite a broad question. Who would like to start?

Dr Bryce Stewart: Looking at the opportunities and challenges, something which the whole referendum campaign has done is to raise the profile of fisheries in the public consciousness and in the Houses of Parliament as well. I think that is important because, although they are not worth very much in GDP, fisheries are much broader in their social, cultural and historic value to the British people and British society. It is not just commercial fisheries, but recreational fisheries are very important to leisure. This is an opportunity to fine-tune what we already have. That is my take on it. I can see that there are many uncertainties. I guess everybody knows this, but, by leaving Europe, there is a potential for us to have a bit more control over some aspects of fisheries policy, in particular, the implementation of the discard ban, which could be tailored more specifically for local areas and regions. It also potentially will give the UK more influence at some of the international fisheries management bodies, such as the North-East Atlantic Fisheries Commission.

It is also potentially an opportunity to sort out some other issues which are not necessarily to do with the EU but perhaps, in a revision of fisheries policy, could be dealt with at the same time. These are, in particular, the distribution of quotas among the British fleet and complaints from the small boat sector, the under-10m sector, that it is unfairly allocated

small quotas. Of course, the big issue is the proportion of quotas that are available to British fleets relative to other European countries that we share our fish stocks with. That is something that would have to be dealt with through very close working with the EU regardless of what arrangement we come to, but it probably is time to have another look at the concept of relative stability and whether it is in the right place at the moment.

Let me go through some of the challenges quickly. Uncertainty is clearly a major challenge and that is what fisheries are like, uncertain. Another real risk is potential harm to trading relationships. Seafood is predominantly exported—about 80% of what is caught by the UK fleet, with about two-thirds going to Europe. For some sectors, the proportion is much higher, so over 80% in general for shellfish, with over 90% of scallops going to Europe. If negotiations over things such as quotas and access to waters affect that trading relationship, that could be very damaging for the UK industry. The other real challenge is the question of money; it is generally a problem for most people. The departments responsible for fisheries management in the UK, for example Defra and the MMO, have had severe budget cuts over several years now, but their responsibilities will increase after Brexit, so that will have to be addressed. We have to make sure, if the UK does set up its own management structure outside the EU, that it still negotiates and agrees quotas that are sustainable and it does not just walk away from the table because it thinks it is not getting enough of a share and sets unsustainably high quotas. Finally, also on the subject of funding, we have the European Maritime and Fisheries Fund, which has supported the industry for a number of years now to become more sustainable, but the future of that fund is also uncertain.

The Chairman: Professor Barnes, do you have anything to add to that?

Professor Richard Barnes: I would echo the view of Dr Stewart. I suppose there are three main opportunities. The first of these is to try to reconstitute the relationship between the regulators, fishers and possibly environmental organisations, and that may entail a higher degree of interaction with those groups and the regulatory framework. Something which was flagged up during the EU referendum debate was the need for greater localised interest within the fisheries regimes. Although that has already been discussed at the European level, it is something that we can take forward.

The other thing that the referendum debate flagged up was the lack of transparency and knowledge about what actually happens within the fishing industry and how it is regulated, so there is an opportunity here to provide greater transparency within any future legal regime. As Dr Stewart mentioned, there is the opportunity to engage directly with international

fisheries managements, which perhaps we will come to later on. The third opportunity, which is qualified, is perhaps to build on some of the more recent successes of the Common Fisheries Policy. There is broad agreement that, in the last couple of years, there have been some positive impacts regarding reduction of capacity, improved effectiveness of fisheries and improved sustainability or at least a stop of the decline in the sustainability of some stocks, so perhaps building on that and addressing some of the gaps or problems with the CFP.

As for the challenges, there are two main challenges. The first one which we are most directly concerned with here is addressing what will be a large regulatory deficit once the UK comes out of Europe. Most of our fisheries law is based on European regulations and, once we come out, those will no longer be applicable automatically, so we need to implement some form of interim measure to ensure that there is an adequate regulatory framework going forward. Obviously, this entails certain costs and considerations. As Dr Stewart alluded to, this is likely to fall upon Defra for the organisation and management, and it has been subject to quite considerable budgetary cuts. Those are the main opportunities and challenges, in my view.

The Chairman: Thank you. Professor Churchill.

Professor Robin Churchill: I agree with what both my colleagues have said and I will not waste time by repeating it, but I would like to emphasise two points. One is that, in the past, fisheries have often had quite a negative impact on the marine environment. For example, industrial fishing has very much reduced the population of sand eels, which has then had a significant adverse effect on colonies of sea birds in this country, so there is an opportunity to take greater account of the environmental issues when adopting regulatory measures for fisheries. Another challenge I would emphasise is that most of the fish stocks found in the waters of the UK are actually shared with our neighbours, be it the EU, Norway, the Faroe Islands or, in some cases, all three. If the stocks are to be properly managed, and this is true of all the North Sea stocks, there will have to be some form of co-operative management regime between the EU, the UK and Norway in the North Sea, I would think, pretty much like the existing EU-Norway arrangement.

The Chairman: Thank you very much. Lord Selkirk.

Q2 Lord Selkirk of Douglas: You have already touched on the subject which I am going to ask you about. Could you give a clearer picture as to what obligations the UK has, and

will have, under international law to co-ordinate fisheries management with both the EU and neighbouring states?

Professor Robin Churchill: I would say there are two main obligations. The first is under the UN Convention on the Law of the Sea, which all relevant states in western Europe are parties to. Under Article 63.1, there is an obligation on states in whose waters the same stocks occur, what are generally called in shorthand “shared stocks”, to co-operate in the management of them. The details of how that is to be done are very vague, but there is a general obligation to co-operate. Then, there is a further obligation to co-operate in respect of species which are found both within national limits, the 200-mile zone, and on the high seas beyond. In UK terms, that would apply, for example, to blue whiting in the Rockall area. There is an obligation in the second paragraph of Article 63 for coastal states and high seas fishing states to co-operate, which is spelt out in much more detail in the Fish Stocks Agreement of 1995. In practical terms, in this part of the world, the management and all these obligations are given effect through the North-East Atlantic Fisheries Commission. At the present time, the EU has exclusive competence for negotiating fisheries, so the UK is not a party to the North-East Atlantic Fisheries Commission. The EU is a party on behalf of all the Member States, so one thing that would need to happen post-Brexit would be for the UK to become a member of the North-East Atlantic Fisheries Commission and probably some other fisheries commissions in areas that affect our overseas territories, such as the south-east Atlantic, in its own right.

Lord Selkirk of Douglas: Do you envisage that it would not just be the United Kingdom involved, but also a lot of other neighbouring countries which are not necessarily in the EU?

Professor Robin Churchill: In the case of stocks on the high seas, yes. In practical terms, it is mainly Russia, Iceland, the EU, Norway and the Faroes, which are of course constitutionally distinct in this respect because they are not part of the EU.

The Chairman: To get it clear in our minds, are those articles within UNCLOS taken seriously and are they obligations which are actually working in practice and through the North-East Atlantic Fisheries Commission?

Professor Robin Churchill: Both obligations are very briefly expressed in the convention and in very general terms without any real detail. The obligation relating to straddling stocks, which are stocks between the high seas and national waters, has been fleshed out in considerable detail in the 1995 Fish Stocks Agreement, but unfortunately there is nothing comparable for the first paragraph which deals with shared stocks. In some parts of the

Professor Richard Barnes, Professor Robin Churchill and Dr Bryce Stewart — Oral Evidence (QQ 1 – 11)

world, things work very well and they have worked very well in the North Sea between the EU and Norway, generally speaking, although there have been some hiccups—for example, over discards—but generally they have worked well. In some other parts of the world, they have not worked very well.

Baroness Sheehan: You mentioned the North-East Atlantic Fisheries Commission and the need for the UK to become a member of that post-Brexit. What is the process? I am assuming it is fairly automatic, but maybe it is not.

The Chairman: We deal with that at question 10, so we will come back to that then, if that is okay.

Lord Rooker: I have a quick question which goes back to Professor Churchill's answers to the first question. We have had voluminous papers and we are going to hear from witnesses. Do I take it from what I have read that there is no such thing as British fish? They are not British fish, as they spawn in different places, they are caught in different places, they travel in the seasons and they are all over the place, so the term "British fish" does not really hold any water, if I can put it that way? Is that correct?

Professor Robin Churchill: I am not a scientist, so I would not like to say very definitely, but my impression is that there are one or two stocks which are solely found in British waters. I suspect that the stocks of haddock to the west of Scotland are, but I may be wrong. I think it might be better if Dr Stewart tried to answer your question.

Dr Bryce Stewart: It is fair to say that the majority of stocks, especially the ones that are regulated by quotas, definitely are shared stocks and that is why we have a need to continue shared management. There are some exceptions normally for shellfish—things like crabs, lobsters, scallops—but we already have almost complete national control over those fisheries anyway. As to what will change after Brexit, yes, the vast majority. Maybe nephrops, scampi, Dublin Bay prawns, whatever you call them, are less mobile, but then almost all marine species spawn and release their young into the water and then they drift around and can go long distances, so yes, most things are shared.

Q3 Viscount Ullswater: Negotiations over quotas and TACs have usually been very prolonged in Brussels and agreement has only ever been reached almost at the last minute. To what extent would it be in the UK's interest to co-ordinate the TACs and quotas with the EU and neighbouring states moving forward and, therefore, do you see any scope for increasing quotas under a new policy?

Dr Bryce Stewart: From my point of view, it is vital that the UK continues to work with the EU and the other relevant countries which it shares stocks with. It comes down to the fact that the fish are moving around between the different areas and what we do affects other countries and, likewise, what they do affects our fisheries, so we have to co-ordinate better, and indeed that has been improving. I totally agree with you that these decisions are often made at 2 am on 23 December, for some reason, but things are improving. Medium-term and long-term management plans are being developed and, indeed, the performance of the Common Fisheries Policy has really improved, particularly over the last five years. We have a situation now where, most narrowly, the majority of the fish stocks are being fished sustainably and, perhaps more importantly, through the reformed Common Fisheries Policy there is a target to have all stocks at a maximum sustainable yield by 2020. That is obviously good for the fish stocks and good for the environment, but it is also good for the fishing industry. This maximum sustainable yield is also the maximum economic yield and, as a result of the improvements that have been going on, we have a situation now where the UK has the most profitable fishery in the EU.

Viscount Hanworth: I am not sure that the maximum sustainable yield is the economic maximum, because it requires fishing on a somewhat depleted stock. As a marine ecologist, are you in favour of a national maximum sustainable yield because, after all, it is an unstable equilibrium and, if that level is exceeded, the implication is extinction?

Dr Bryce Stewart: Well, I was not advocating exceeding it. No, you are completely right, it is a measure that has to be used wisely, so it has been described to me as a “target”, but you do not want to miss the target and particularly you do not want to overshoot and overfish the stock because suddenly things start to decline. I was simplifying the maximum sustainable yield a little, but it is fairly complicated to implement because you often have, particularly in the North Sea, a mixed fishery, with different species, and it is hard to get it precisely right. However, if you are fishing at a rate, you may end up having a slightly higher stock in the sea than would provide you with the maximum sustainable yield, but you are not overfishing it. That is the sort of level that you should be aiming for.

Viscount Hanworth: Even in the abstract, I would dispute that it is the economic optimum because, after all, you are expending an extra effort on fishing a more depleted stock than otherwise, so I think at least the abstract model suggests that the economic optimum is somewhat below the maximum sustainable yield.

Dr Bryce Stewart: Okay, yes.

Viscount Hanworth: I think that point is not sufficiently understood by the people in Brussels.

Dr Bryce Stewart: Sure. I guess I was making the point that, if you increase the sustainability and the productivity of fish stocks, it is going to result in a more profitable industry, but no, you have to get that target right. I am not an economist, but you are completely right; I agree with you and perhaps I was being a bit casual there.

Professor Robin Churchill: A supplementary point coming back to your question is that one should perhaps distinguish the position between TACs and quotas. I think it is vital that the TAC for shared stocks is agreed because, if it is not, then we are likely to get overfishing. This may be more straightforward in some ways than you suspect because the TACs are recommended each year by a scientific body, the International Council for the Exploration of the Sea—ICES. The trouble with the Common Fisheries Policy in the past was often that ICES recommended a TAC and then the fisheries Ministers met and adopted an allowable catch that was higher than the recommended TAC. For North Sea stocks which are shared, if Norway, the EU and the UK post-Brexit can agree to follow the recommendations of ICES, then we should get sensible and sustainable TACs, but it will be much more of an issue over how that is divided up between the UK and the EU in the future. At the moment, there is a division between Norway and the EU and that is based on a long-standing principle called “zonal attachment”, which was dreamed up in the 1970s on the basis that, if you had X% of the stock when it was mature in your zone, then you got X%, that same percentage, of the TAC. Now, with the UK, that principle may work, or the EU may say, “Well, actually the UK ought to have the same share that it’s had for the last 20 years”, which is based on relative stability, which, in turn, is based on historic fishing catches.

The Chairman: Is there any evidence about whether the current relative stability proportions are “fair” to UK fisheries? Maybe it is different in Scotland from what it is in north-western waters, but this is likely to be, I suspect, a very major part of the argument in that the fishing industry is not happy about the position of relative stability, so is there evidence around this area that can be brought to the table?

Professor Robin Churchill: A slightly flip response would be to say that fairness is in the eye of the beholder. To try to give you an objective sort of answer, although quotas are based on relative stability, those figures have been adjusted over the years to take account of different patterns of fishing, so, if you looked at percentages of the TAC for a particular stock by Member States, this year you would find they were probably quite different in many

cases from 20 or 30 years ago. The notion is really based on several factors: historic catches, which of course were catches in the 1970s and so do not really correspond to the situation today at all; and then dependence of inshore fishermen on fisheries in particular regions, and I guess that may have changed over the years as well. I suspect that to sit down and renegotiate relative stability from scratch would be a mammoth task and one that the EU would not be very keen on doing. It was hard enough to get agreement on the relative stability percentages in the first place in the 1980s.

The Chairman: Do you think that is an area where there will be complete resistance from the Commission to negotiation?

Professor Robin Churchill: I suspect so, yes. This is going to be a very tough area for negotiation, possibly one of the toughest.

Dr Bryce Stewart: Robin is completely right: it is fairness in the eye of the beholder, and obviously there are a lot of complaints about people not having enough share. It is worth bearing in mind that there are different preferences among the different countries and boats and fishing methods are set up to favour certain species, so the UK fleet does not prosecute herring as much as the Dutch fleet does, for example. If you were to decide to change the partitioning of that stock, a lot of boats would need to completely change their practices and they may not necessarily want to do that, so you definitely need to consult closely with the industry about what their desires really are.

Professor Richard Barnes: Just to come back to the original question on quotas, there are two ways in which that can be done. The first is for the overall TAC for a particular species to be increased at a regional level, but I think we have to avoid that. Given the state of fisheries within European waters at the moment, that is, I think, simply impossible. What we have been discussing is whether there can be a renegotiation of quotas between Member States. I would just echo the points made by my colleagues, but emphasise that experience shows us that there is an unwillingness to move very far away from the existing practices and allocations because, as soon as you start to unpick and negotiate differentials in one area, it has a knock-on effect in other areas, so we do not want to make the house of cards collapse, as it were.

Q4 Lord Cunningham of Felling: Given the well-established and well-known complexity of the Common Fisheries Policy and given the length of time it has taken to make the progress that has been made, would it be in the UK's best interests after we leave the European Union simply to seek to align our fisheries policy with the CFP?

Dr Bryce Stewart: My view is yes, basically. This is a long process and we are finally getting somewhere and there have been a lot of positive measures, particularly in the latest reform. Whether or not the UK can become a sort of adjunct member of the Common Fisheries Policy or whether or not it has its own policy that is basically aligned, there are arguments either way. If it has its own policy, it has a bit more flexibility and it can change some specific measures to suit the UK better, but, if it becomes something like an adjunct member, then it has more potential probably to influence not just what the UK does but what the other Member States do as well, and I think you just have to weigh up those two options. Basically, yes, overall it is a system where, if you had asked me 10 years ago, I would have given you a different answer, but now it is definitely much improved and it is starting to really deliver.

Professor Richard Barnes: I absolutely agree. We have to align to a large extent whatever fisheries regulatory regime we put in place with that of Europe. I think any fisheries management has to proceed on the basis of co-operation, without which we will have to go back to situations of competitive overfishing. I think it provides mechanisms for sharing practice, but also in legal terms, as Professor Churchill has mentioned, under international law, there are particular requirements of compatibility between fisheries regulation within exclusive economic zones and on the high seas. While that does not require them to be identical, it does require compatible fisheries regulations. If we were in the situation where states failed to respect, for example, closed areas or allowed particular types of fishing gear to be used which were economically advantageous, that would start to undermine the overall effectiveness of fisheries management. That would have an adverse impact on stocks, which everybody wants to avoid, but also would risk politicising and undermining the regimes that we have in place.

Professor Robin Churchill: I agree with what has been said.

Lord Cunningham of Felling: Whatever happens, whether we align our fisheries policy after leaving the EU with the Common Fisheries Policy or not, should the UK seek to preserve the conservation measures already established under European Union law?

Dr Bryce Stewart: Again, yes, I very much believe that is the case. The European marine sites, the special areas of conservation that have been brought in through European law, are actually the most effective marine protected areas around the UK at the moment. A lot of them now have fairly comprehensive management plans that are starting to work and it is vital that those measures are continued. Yes, those protected areas restrict some fisheries to some extent, but they are about the overall long-term sustainability of the marine

environment, which is what fisheries and many other sectors depend on, so I am very much in favour of that.

Q5 Lord Curry of Kirkharle: Professor Barnes mentioned the exclusive economic zones and I would like to explore this area a bit more. Those who voted to leave the European Union with an interest in fishing did so because they wanted to retake control of their own fishing policy and their own waters and they are not going to be happy if all we finish up with is the status quo, so to what extent within international law do we have the ability to control our own waters? It does seem that this is going to be another area of interest within the negotiations.

Professor Richard Barnes: As Professor Churchill mentioned, all states are parties to the United Nations Convention on the Law of the Sea, which has particular provisions on the exclusive economic zone, and coastal states are granted sovereign rights for the purpose of exploring/exploiting the natural resources of the EEZ. This comes back to a point about ownership, that this is a right to govern as it will, but it is subject to certain rights and responsibilities. The rights are to enjoy the resources, but obviously whether or not the resources are exclusive to those waters is another question. There are also certain responsibilities, which are to co-operate in the management of the fish stocks there. Again, exclusive of the sovereign rights, while the coastal state is entitled to set a TAC and to fish up to those limits, there are obligations to provide a surplus where we cannot catch that, so, regardless of whether we are in or out of Europe, that would still apply. Within the EEZ, I do not think there is anything which would suggest that coastal states have the right to exclude absolutely foreign states from fishing in these waters.

Lord Curry of Kirkharle: Forgive me, but you do not sound terribly certain about that. You are saying that you do not think there is the right.

Professor Richard Barnes: This comes back to the nature of the resource itself. It is incredibly difficult to view the regulation of fisheries in isolation from what other states do, but also from other activities, so, when it comes to implementing measures to do with allocating fish quotas or to determine where and when fish are caught, other factors have to be taken into account, so, as a matter of practical expediency, there has to be some degree of co-operation and there have to be concessions to other states' interests within these waters. How that pans out at a particular level is probably quite difficult to map out, but those general commitments prevail.

Professor Robin Churchill: There is a distinction between what is said in the UN Convention on the Law of the Sea and what tends to happen in practice. The answer to your question as far as the convention is concerned is that, if in a particular coastal state's EEZ the coastal state is capable of harvesting the entire allowable catch, it is under no obligation to allow any other fishermen from other states to fish there, so it can take the whole of the allowable catch. Where an obligation to admit other fishers comes in—again, this is on the theory of the convention—that is where the coastal state does not take the whole of the allowable catch and there is a surplus. It must admit other states to the surplus, but again it has a discretion, subject to admitting landlocked and geographically disadvantaged states in the region which do have an entitlement, but only where there is a surplus. As Professor Barnes explained, in practice states often admit foreign vessels to their waters because they want to get reciprocal access to the waters of the other state. This happens on a considerable scale with the EU and Norway where the EU is interested in fishing in Norwegian waters for cod, say, because that is a particular interest, and then it is happy to allow Norwegians to fish for more mackerel in the EU zone, even though in neither case is there a surplus.

Lord Cunningham of Felling: On that very point, when Britain leaves the European Union, who will decide what the total allowable catch is in British waters?

Professor Robin Churchill: Post-Brexit, that will be the British Government or whatever public body is responsible for managing fisheries.

Baroness Sheehan: Would it not be ICES?

Dr Bryce Stewart: That is what we would like to see, but it is not guaranteed.

Professor Richard Barnes: The UK is a party to the ICES convention in its own right and it would still be able to make use of the advice provided. What is critical here is that ICES is probably in the best position to provide overarching data about the state of stocks at a regional level. While the UK could, in theory, calculate, estimate, monitor and so on its fish stocks, if that were duplicating what was happening at ICES, it would be an unwarranted task, but also it would not be able to account for what is happening in other Member States' waters, and I think that data is absolutely critical to setting sustainable TACs going forward.

Dr Bryce Stewart: Can I make two quick points? One, which is about excluding other nations from British waters, is that of course UK boats currently fish in other countries' waters, including Norway's and in other European EEZs, so about 20% of the UK catch is landed at overseas ports and about 17% of the value of UK fisheries is caught in the EEZs of

other European nations. Presumably, if we could and did exclude countries from our EEZ, we would likely lose that access and then, of course, it comes back to what effects this might have on seafood trading relationships. I am not a lawyer, but I have some text from UNCLOS which says that one of the regulations is to “minimise economic dislocation in states whose nations have habitually fished in the EEZ and which have made substantial efforts in research and identification of stocks”. For the last 30 years, a lot of European nations have been fishing in British EEZs, so do they qualify as having now habitually fished?

The Chairman: Perhaps we can move on to that. Baroness Sheehan.

Q6 Baroness Sheehan: As you have already started to move us in that direction, we want to ask about the historic access rights to EEZs. We have read a huge amount in the paperwork we have been given about the historic access rights and the fact that currently they are as defined by the London convention, but we have also heard about possible medieval access rights. Can you give us some background about how historic access rights are defined and claimed in both those contexts?

Professor Richard Barnes: I will kick off with a couple of brief observations. If we are talking about historic rights, it is quite a difficult thing to define under international law and I could not find any coherent definition which precisely pinpoints exactly what a historic fishing right is; it is very contextual. While you are right to refer to the European Fisheries Convention, which does deal with some of that, I think the question could be argued. Certainly international courts have tried to refrain from ruling on these in general because they are either incidental to the main issues in litigation or they are simply too problematic. In lay terms, what we are looking at here are probably rights that have been asserted by states on the basis of some form of practice or usage over a considerable period of time which had not been objected to and have been acquiesced to. There is no precise time limit for when these would have to have arisen and how long they would have to be asserted for. Professor Churchill can correct me on this, but the international court recognised fishing rights of about 50 years or so in the fisheries jurisdiction case of British fishing in Icelandic waters, and that was recognised by Iceland in that case as something which they thought had existed here. For European waters, I take the position that most of the historic rights, medieval or later, have largely been reduced down to those which are captured within the Fisheries Convention which, of itself, did not specify what those are. These have subsequently been reiterated not exactly but in the annexe to the basic fisheries regulation of the Common Fisheries Policy and that details where these historic fishing rights exist.

They are largely limited to the territorial sea and are phased out in the six-mile zone, but continue to operate between six and 12 nautical miles. I can provide a list of where those that operate at the moment are. It is probably important to stress that these rights are limited to the territorial sea and historic fishing rights do not exist within the exclusive economic zone. There was recently some litigation between the Philippines and China which dealt with this issue and, while it was quite complex, one of the main findings of the tribunal was that, in effect, the emergence and creation of the exclusive economic zone put an end to pre-existing historical rights and states, by basically signing up to the convention as part of the package deal, forgoing any claims to historic fishing rights that would be contrary to the interests of the coastal state.

Baroness Sheehan: Thank you for clarifying that they mostly apply to the six to 12-mile limit. How important do you think these rights are going to be for Britain taking back control of those waters post-Brexit?

Professor Robin Churchill: I have been thinking a lot about this recently and have come to the conclusion that probably the UK could, and I will explain why. I am talking now just about the rights of foreign vessels to fish in the six to 12-mile zone off the UK. That was originally laid down in the European Fisheries Convention 1964. The background at the time was that west European states only had a territorial sea of generally three or four miles and many of them wanted to be able to claim jurisdiction over fisheries to 12 miles. No agreement was reached on that at the first UN Conference on the Law of the Sea in 1958, so this 1964 convention was a regional treaty to provide for states to have an exclusive fishing zone of 12 miles, subject to the fact that states that had historically fished in the outer six miles could continue to do so, where “historic” in that sense meant 10 years before the convention was drawn up. The convention operated like that quite well until the common fisheries came along in 1970, but one should realise that there is a provision in the 1964 convention which says, “Nothing shall prevent the maintenance or establishment of a special regime in matters of fisheries as between Member States of the EEC”. The first fisheries regulation adopted in 1970 on the eve of negotiations between the UK, Denmark, Ireland and Norway had a provision in it for equal access to all national waters with an exception for the inner three miles. That provision was highly objected to by all the applicant states at the time and the 1972 Treaty of Accession introduced a derogation which was that, in regions where inshore fisheries were particularly important and sensitive, a Member State could establish a 12-mile zone where the equal right of access would not apply, but Member

States that had rights under the 1964 convention could continue to fish there. That derogation has been replaced and repeated at 10-year intervals ever since and is in the latest 2013 regulation. Now, so far as the Member States are concerned, these rights to fishing in the outer six miles, which is what people generally mean when they are talking about historic rights, derive from EU law. They do not derive any longer from the 1964 convention, because that allowed the EU to have its own regime. The basic regime in the EU is equal access, and the 12-mile limit with the six to 12-mile historic rights are an exception to equal access, so those rights derive from EU law. Now, of course, when the UK leaves the EU, the Common Fisheries Policy and that regulation will no longer apply, so the question then is: will these rights from 1964 suddenly revive after 40 years? I am rather sceptical about that, but, even if they do, there is a way out for the UK because the 1964 convention said that it would last for 20 years and, after 20 years—so after 1986—any state party could withdraw from it, so the UK could cover itself and withdraw from that.

Baroness Sheehan: That is very clear. In your opinion, you think that the UK need not abide by the 1972 treaty obligations. What about reciprocity and issues arising out of that? If we were to refuse historic access rights to other nations, what about Britain's historic access rights in other countries' coastal waters?

The Chairman: We have moved on to question seven. Duke of Montrose, we have rather taken one of your questions.

Q7 Duke of Montrose: One is really looking at what the differentials are likely to be between the six to 12-mile band and the full EEZ. Professor Barnes was saying that, in some other aspects, the introduction of an EEZ had done away with historic rights, so are there any historic rights within the UK EEZ and will they continue, or will they differentiate from what you were explaining about the six to 12-mile limit?

Professor Richard Barnes: To my knowledge, there would be no claims to historic rights in the UK EEZ which could be sustained going forward.

The Chairman: So we are clear that it is from six to 12 and, in fact, we could jump all of that through the mechanisms that Professor Churchill has talked about, and historic rights are not recognised anyway in the EEZ outside 12 miles. Is that right?

Professor Robin Churchill: Yes.

Professor Richard Barnes: I agree with Professor Churchill's analysis of the regime under the London convention. However, this is something that probably could be presented as part of a political argument to maintain historic fishing rights and there may be some quite

sophisticated attempts to argue, for example, the survival of historic fishing rights as a matter of local custom or international law or that, for example, while the London convention has largely been subsumed by subsequent EU laws, that would remain as an interstate agreement and, once we step out and are no longer bound by that, perhaps the London convention regime would resurface. The key point is that we could withdraw legitimately from that convention.

Professor Robin Churchill: There are some interesting court judgments from the European Court of Justice from the early 1980s involving Spanish fishermen, before Spain became a member of the EU, in which the court said that developments in the law of the sea had rendered the 1964 convention obsolete. It is not terribly well argued, but, if you wanted to bring in the authority of the European court for that course, you certainly could.

The Chairman: I think we might just leave that where it is for the moment.

Q8 Lord Rooker: This is a crude way of putting it, but do I have it right that, for practical purposes as far as the UK is concerned, life began in 1972 and a lot of what had been there previously has been parked because we have been a member of the EU and, therefore, it is 40 years old, which is quite a long period in economic terms? I also want to ask you, because nobody has mentioned them, about these claims that we could get our rights back to do and control everything within 200 miles. One of the claims made by some Brexiteers was that we could control everything within 200 miles and the only thing that might interfere a bit with that was the historic rights, but it looks as though the historic rights might be a bit flaky anyway. Do I have that right, that there is no possibility of us securing the rights to control everything that happens and who fishes and what they fish for in the 200-mile limit that is relevant around the UK?

Professor Robin Churchill: Well, there is, but then the UK could only do that without co-operating with the EU and Norway and the result is likely to be that fish stocks which are shared—most commercial species around the coast of Britain—would simply become overfished, so it would be rather a hollow victory.

Dr Bryce Stewart: And very damaging obviously to diplomatic relations, trading relations and all the rest of it.

Lord Rooker: From the UK's point of view, relying on the London convention as a default does not work, because it is too old now.

Professor Robin Churchill: The 1964 convention really operates to our detriment because there are far more rights for other countries to fish in British waters than the UK has in

foreign waters. The UK only has rights in five areas of coast, whereas I think there are 32 areas of the British coast where other states can fish.

Lord Rooker: Do you think that the UK will have to work to re-establish claims to so-called historic rights? They will not be accepted as a default by our, at present, European partners. Will we have to make a claim for any special factors and historic rights as part of the negotiations?

Professor Robin Churchill: I would not have thought so, no.

The Chairman: Presumably, everything you have said about foreign, non-British fleets in UK waters in the EEZ will be exactly the same for us where we have far fewer historic rights, or is it more complicated?

Professor Richard Barnes: It is quite complicated. Formally speaking, the regime that applies to vessels in UK waters ought to be, in theory, the same as elsewhere. Even within waters that are subject to historic fishing rights, the coastal state can still regulate fishing activities, but that is done on quite a patchwork basis and I think a bit of a stocktaking exercise would be required to look at exactly which rules and regulations apply to different fisheries in different areas. I quickly did this and it is not an entirely consistent position, and that is only within the UK at the moment. We would have to look at the regimes in Germany, the Netherlands, Ireland and France where we have these historic rights.

The Chairman: We had better move on to what I think of as “quota hopping”.

Q9 Viscount Hanworth: You just mentioned quota hopping, which I think is a matter of foreign companies owning UK fishing rights. Is it a matter of asking whether we can take back the quotas from the quota hoppers where we can pre-empt them? Is that a realistic possibility where we can say “Shoo” to the Dutch, who own a very large proportion of quotas?

Professor Robin Churchill: Quota hopping is possible because of freedom of establishment, which is the legal basis for it. That is freedom of establishment under EU law, where one concern can set up in another Member State and engage in economic activity there. The big question will be whether the relationship that the UK has with the EU post-Brexit will have provisions for freedom of establishment either in general or for specific sectors. I imagine that the British Government will want to have some freedom of establishment at least for things like the financial sector, but it will be a matter for negotiation whether it is for all sectors or some sectors. For example, in the European Economic Area, there is full freedom of establishment.

Viscount Hanworth: So, in practice, we could drive out the foreign owners who have quotas, but it will be particularly contentious and difficult.

Professor Robin Churchill: If we could exclude freedom of establishment for the fishing industry, certainly, yes.

Dr Bryce Stewart: Whether or not foreign owners are excluded is a matter of debate. We have foreign-owned football clubs, for example, so do we get rid of them as well? At the moment, these foreign-owned fishing interests have certain requirements where they have to demonstrate an economic link or benefit to the UK. I will not go through all the details of what they are, but they are to do with landing the catch here or employing crews here, so post-Brexit we could make those regulations more stringent perhaps so that more benefits come to the UK while still allowing foreign investment, but again that is a matter of debate.

The Chairman: We are running out of time, so perhaps we could move on.

Viscount Hanworth: We have been talking about pre-empting our fish stocks within the EEZ, or at least some people have. Can you tell me what the circumstances of Iceland are? Has it, in fact, declared a full 200-mile exclusive economic zone and excluded everybody from it, or am I right in thinking that we have a substantial number of vessels within that area? Of course, Iceland would be a precedent for anything that we might wish to do.

Professor Richard Barnes: Yes, Iceland has an exclusive economic zone of 200 nautical miles and it is largely excluded to support fishermen, but the circumstances of Icelandic fisheries are quite different from those of the UK and the nature of the fisheries is such that Iceland is able to maintain a higher degree of control over that, so we have to be careful about using it as a model going forward.

Viscount Hanworth: But we have 24 boats, so I believe, fishing there with something like 30,000 tonnes.

Professor Richard Barnes: There is a northern agreement that allows for some access rights, but this is something we would have to negotiate and, going forward, it is something we would have to negotiate in the same way as the EU does with Norway and other countries.

The Chairman: We will perhaps leave that for the moment. Lord Cunningham, finally.

Q10 Lord Cunningham of Felling: Historically, the UK has had international fishing agreements with third countries and is a member of regional management organisations through our membership of the European Union. What status will those agreements have when Britain has left the European Union?

Professor Richard Barnes: I thought that was quite a difficult question.

Lord Cunningham of Felling: They are not meant to be easy.

Professor Richard Barnes: There is a question about what is the status of the UK vis-à-vis any treaty regime to which the EU is a party and whether or not the UK would succeed to membership. I would take the view that, if the UK withdraws from the European Union, it is no longer a member of these and would have to apply to become a member of any regional fisheries management organisation. That would not be particularly difficult or contentious regarding the formal legal process. What would be more difficult would be the extent to which we would be able to enjoy particular shares of quota thereunder. As regards the fisheries partnership agreements, the more significant would be the one between the EU and Greenland, which has just been recently concluded. On an ad hoc basis, the UK would be looking to perhaps negotiate some form of arrangement similar to that in its own right and then, where it has the capacity and interest to do so with, for example, third states—in Africa and the Caribbean, and Commonwealth countries—it would proceed on that basis.

Lord Cunningham of Felling: If Britain made an application to join these organisations in its own right as an independent, non-member of the European Union, what would happen if the existing members objected?

Professor Richard Barnes: To clarify, it would apply to become a member of the regional fisheries organisations. The fisheries partnership arrangements are, effectively, bilateral agreements between the EU and the host state. The UK would not be able to participate in those.

Lord Cunningham of Felling: It would not be able to?

Professor Richard Barnes: No, they do not establish a regime which would allow the UK to participate.

Lord Cunningham of Felling: It is important to clarify that.

Professor Richard Barnes: However, I think that the UK would be entitled to negotiate its own bilateral arrangements with third states on a similar basis to that.

Lord Cunningham of Felling: And the consequences of that would be that the third states would have rights in UK waters.

Professor Richard Barnes: With the fisheries partnership agreements and sustainable fisheries agreements, these tend to be rights of access on the payment of a fee. The fee then is given to the Government, often attached to conditions to improve the quality of their fisheries. There tends not to be a reciprocal right of access to UK waters, so mainly these

agreements have been negotiated to provide space for excess European fleet capacity to fish in third-state waters outside Europe.

Q11 The Chairman: Perhaps I could just ask you, gentlemen, to give maybe one sentence of what you think is most important for us to concentrate on in the report that we make from this session. What would you see as the key issue or issues here? I will start with Professor Churchill.

Professor Robin Churchill: The things that I would stress are that, even after the UK leaves the EU, we will still need to collaborate with the EU over a lot of fisheries management. I would also emphasise that the UK needs to think carefully about trying to maintain tariff-free access for fishery exports to the EU and not be surprised if the EU then tries to bargain increased access to UK waters for that, which is what has happened with Norway in the past.

Professor Richard Barnes: I absolutely concur with that final point. We need to look at a short-term solution to fill the regulatory gap left by the withdrawal from the European Union as regards fisheries regulation. That is absolutely critical and would buy us time to more fully develop and engage with stakeholders to legislate perhaps a more discrete and complete fisheries regime for the UK.

Dr Bryce Stewart: I totally concur with my colleagues on all those points. Just to emphasise, it is fundamental that management should be science-led in the future and that many of the positive measures that have been developed with the reformed Common Fisheries Policy over the last few years should continue to be implemented whether we are a member of the Common Fisheries Policy or not.

The Chairman: Thank you very much indeed for your evidence. It has been enlightening, detailed and quite legal in some areas, and it will play a fundamental part in our report. Thank you.

Professor Robin Churchill, Professor Richard Barnes and Dr Bryce Stewart — Oral Evidence (QQ 1 – 11)

Professor Robin Churchill, Professor Richard Barnes and Dr Bryce Stewart — Oral Evidence (QQ 1 – 11)

[Transcript can be found under Professor Richard Barnes, Professor Robin Churchill and Dr Bryce Stewart — Oral Evidence \(QQ 1 – 11\)](#)

Marcus Coleman, Bertie Armstrong, Hazel Curtis and Barrie Deas — Oral Evidence (QQ 12 – 21)

Marcus Coleman, Bertie Armstrong, Hazel Curtis and Barrie Deas — Oral Evidence (QQ 12 – 21)

[Transcript can be found under Bertie Armstrong, Marcus Coleman, Hazel Curtis and Barrie Deas — Oral Evidence \(QQ 12 – 21\)](#)

Hazel Curtis, Bertie Armstrong, Marcus Coleman, and Barrie Deas — Oral Evidence (QQ 12 – 21)

**Hazel Curtis, Bertie Armstrong, Marcus Coleman, and Barrie Deas
— Oral Evidence (QQ 12 – 21)**

[Transcript can be found under Bertie Armstrong, Marcus Coleman, Hazel Curtis and Barrie Deas — Oral Evidence \(QQ 12 – 21\)](#)

Barrie Deas, Bertie Armstrong, Marcus Coleman and Hazel Curtis — Oral Evidence (QQ 12 – 21)

Barrie Deas, Bertie Armstrong, Marcus Coleman and Hazel Curtis — Oral Evidence (QQ 12 – 21)

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Geir Ervik, Vidar Landmark and Sigurgeir Thorgeirsson — Oral Evidence (QQ 22 – 31)

WEDNESDAY 14 SEPTEMBER 2016

10.30 am

Witnesses: Sigurgeir Thorgeirsson, Vidar Landmark and Geir Ervik

Members present

Lord Teverson (Chairman)
Lord Curry of Kirkharle
Viscount Hanworth
Lord Krebs
Lord Rooker
Lord Selkirk of Douglas
Baroness Sheehan
Lord Trees
Baroness Wilcox

Examination of Witnesses

Sigurgeir Thorgeirsson, Senior Adviser, Icelandic Ministry of Fisheries and Agriculture, **Vidar Landmark**, Director General for Fisheries and Aquaculture, Norwegian Ministry of Trade, Industry and Fisheries, and **Geir Ervik**, Senior Adviser, Norwegian Ministry of Trade, Industry and Fisheries

The Chairman: Colleagues, gentlemen, perhaps I could start this public session of the Sub-Committee. This is the second day of taking evidence on our fisheries and Britain's withdrawal from the European Union, and I am very pleased to welcome our representatives from Iceland and Norway. Perhaps I can mention a couple of formal matters first and remind the Committee and our witnesses that this session will be transcribed, so you will get a copy of the transcript and be able to amend anything that you feel is in error. We are also being webcast, so the session is fully on the record. I must also ask members of the Committee to declare any interests they have. I will make it clear that I am a board member of the Marine Management Organisation, which is an interest I have in this area. Could I ask you to briefly introduce yourselves for the Committee and for those who are listening to the webcast and then we will move into questions after that?

Geir Ervik: My name is Geir Ervik. I work in the Ministry of Trade, Industry and Fisheries in Norway in the Department of Fisheries and Aquaculture. I work in the section for fisheries

management. My main portfolio is domestic regulation of fisheries and negotiations—bilateral, Norway and EU—in managing the common stocks in the North Sea.

Vidar Landmark: Good morning, everybody. My name is Vidar Landmark. I am the Director General in the Ministry of Trade, Industry and Fisheries and Head of the Department of Fisheries and Aquaculture.

Sigurgeir Thorgeirsson: My name is Sigurgeir Thorgeirsson. I used to be the Permanent Secretary in the Ministry of Fisheries and Agriculture in Iceland and I now serve as the senior adviser to the Minister on fisheries matters in the Ministry of Industries and Innovation, as it is called today.

Q12 The Chairman: First, perhaps we can start at a general level. This is a very important session because you have, as nations outside the European Union, very close relationships, particularly in fisheries, with the European Union, so are our potential, dare I say, models or indicators of how Britain might have to interact on the sorts of issues that come up, so that is what we are trying to find out today. Your respective fisheries policies are seen by many as flexible and successful in promoting sustainable stocks. Could you shortly introduce how you approach fisheries management, the objectives of your fisheries policy and the key features of that policy? That is not meant to be an hour each, which I realise is quite a challenge, but perhaps you could take us through the main points and then we will get into more detail.

Vidar Landmark: I can start from the Norwegian side. Let me say first that I am very pleased to be given this opportunity to address your Committee on this important subject of responsible fisheries and Norway's fisheries co-operation with the EU. As you know, Norway is integrated in the European market with the agreement on the European Economic Area, which covers most sectors of society, but not fisheries management and trade in fisheries products, so we have a rather unique experience of both being inside and having the EU as a negotiation counterpart when it comes to fisheries management. We have seen Brussels from both sides, which has been very interesting.

To keep it short—as you said, Lord Chairman, I could speak for hours on this subject—our approach to fisheries is, first, to take scientific advice. Norwegian resource management is based upon the principles of long-term sustainable harvesting and on the use of the best scientific advice available, taking into account the principles of the precautionary approach. We get our scientific advice from the system around ICES, the International Council for the Exploration of the Seas, to make sure that the advice is objective—not only from scientists

employed by the Norwegian Government but from other scientists, which is a very important factor to build a system of trust around the scientific advice. So scientific advice is the first cornerstone.

We place great emphasis on control, enforcement and strict regulations. Resource control is another cornerstone of our system; we need to secure information on catches of fish within the jurisdiction of the Norwegian waters, and we have a Directorate of Fisheries, which is a subsidiary under the ministry and which is responsible for resource control. They execute quayside inspections, sales inspections, post-landing audits, satellite surveillance, electronic reporting and quota control.

Then we have implied measures such as the closing of access to fishing, licensing and individual vessel quotas in order to prevent overfishing and the depletion of resources and, not least, to secure the economic profitability in the industry and thus secure one of the three elements of sustainability. We tend to talk about sustainability when we are really talking only about biological sustainability, but there is also the part to do with the economic sustainability.

Another important element in our management system is the Norwegian coastguard. The coastguard is responsible for exercising resource control at sea and we place great emphasis on that matter—controlling not only what happens after the vessel has landed but also controlling activity at sea. That is, in our view, a very important element of the overall and total control of the industry. This is a huge task considering the size of Norwegian waters compared to a rather small country. We have waters that are more or less seven times the area we have in land territory—waters more or less the same size as the Mediterranean Sea are under Norwegian jurisdiction.

The aim of these different measures is to ensure that the various fisheries in Norway are conducted according to the regulations and within the total allowable catch for each stock. The objective of this policy is to secure biological sustainability and economic, sound fisheries to make sure that our resources are utilised to the benefit of our coastal communities. The key features are to set quotas according to scientific advice and according to long-term management plans in securing both the profitability and the biological sustainability through control participation and strict control of the activity itself. Thank you.

The Chairman: Before we move on to the Icelandic experience, can I clarify something? In the UK—we had an example of this last week—we have a very different Scottish fleet which tends to consist of much larger vessels, and pelagic, whereas in England we have a very

mixed fishery and the majority of the vessels are quite small. Could you tell us what that sort of mix is in the Norwegian fleet? Is it all large vessels or are there a lot of artisan fisheries as well?

Vidar Landmark: A very quick count in my head would say that we have something like 150-plus oceangoing vessels, which would be vessels of, say, 50 metres to 60 metres and above. In our register of vessels, we have something like 7,500 or 7,600 vessels altogether, so the rest of these will be smaller, coastal vessels.

The Chairman: That puts it in context, thank you. Mr Thorgeirsson?

Sigurgeir Thorgeirsson: Like my Norwegian colleague, I thank you for this invitation. There are several similarities in our policies, so there will be a bit of repetition. First, I would like to say that fisheries is one of the most important pillars in Iceland's economy at close to 10% of GDP and creating over 20% of foreign currency earnings—so it is a vital sector in our economy and fundamental in maintaining livelihoods in towns and villages throughout the country. It is very important to our rural policy as well.

The main objectives of the fisheries policy are to secure sustainable management of the fish stocks and to utilise the marine resources in such a way as to maximise the economic and social benefits to the nation as a whole. In short, the management is based on scientific advice and an ITQ system—individual transferable quota system. The quota system was developed and initially based on three years' catch history after unsuccessful experiences of effort controls of different kinds for some years in the late 1970s and early 1980s. The TAC for each stock in quota, which is about 97% of all fish caught by Icelandic vessels, is decided annually by the Minister of Fisheries following the advice of the Icelandic Marine Research Institute, which has been reviewed, scrutinised and verified by ICES, as my Norwegian colleague described earlier. The Minister is not bound by this advice, but it has always been followed with only minor deviations and, over the last four years at least, the Minister has followed the scientific advice 100% for all stocks. I hope that will remain the case, although they are tempted sometimes not to.

Important in this respect is the development of long-term strategies for utilisation and the setting of catch rules that undergo scrutiny and are verified by ICES as well. Such rules are now in place for cod, haddock, redfish, saithe and capelin and they are being developed for more species. These catch rules are very important in that it takes courage for the Minister to deviate from the catch rules; they are taken seriously by ICES and we get bad publicity if the Minister does not follow the rules, although he is not strictly bound by them. The total

allowable catch in each stock is divided between vessels according to their quota shares, and 5.3% of each stock is kept aside by the state for vessels to meet local difficulties that may arise and for small-scale coastal fisheries. The quotas and quota shares are freely tradeable, which is a key factor in the system.

One other thing is that it is compulsory to bring to shore all fish caught: that is to say, discarding is strictly prohibited and there are flexibilities in the system to reduce incentives for discarding. Research has shown that discarding of undersized fish is only minimal. We cannot test so easily the discarding of unwanted species or species that vessels do not have quotas for, but the general feeling is that it is not a major problem.

Surveillance and enforcement are of course a very important component of the system and, in that instance, very much the same applies as what was described by Mr Landmark. We have a directorate of fisheries and the coastguard plays a vital role in controlling the activities at sea. All landings are recorded daily into a database of the Directorate of Fisheries that is freely accessible on the internet—thus anyone can at any time look up the quota status of every single vessel and all landings. This is considered important in creating what might be called “intra-sector policing”: that is to say, the fishermen keep an eye on each other. This system is not without failure, but in the main we consider it to have been successful in preserving the stocks and creating a very economically efficient sector. Thank you.

The Chairman: That is a very good start; thank you. Perhaps I could pass over to Lord Curry.

Q13 Lord Curry of Kirkharle: Good morning. I would like to explore what flexibility you have been able to negotiate with the European Union with regard to the Common Fisheries Policy. How do your own domestic fisheries policies differ from the Common Fisheries Policy?

Vidar Landmark: The main difference has been, and still is, that we focus on how much fish is actually caught. When it comes to mesh sizes and areas closing and so on, our technical regulations are, to a very large degree, aimed at avoiding catching unwanted fish. Like Iceland, we have had a discard ban for years and we have focused very much, as I say, on helping the fishermen to avoid catching the unwanted fish as, when you have caught a fish and you cannot utilise it, it is very tempting to discard it, so the main focus is to avoid that happening. The EU policy up to now has been focused on what quantity the vessel is bringing to shore and adjusting the catches according to the quotas for landings; that has up to now

been the main difference. This seems like one element, but actually this influences quite a lot of other elements in the total regulatory system. It influences very much the possibilities of sustainable stock management to try to have control over what is actually caught—the fishing mortality as it happens out at sea.

Lord Curry of Kirkharle: Can I just ask a supplementary? Are you able to determine your own net sizes?

Vidar Landmark: Yes, in our own waters, we determine our own mesh sizes. We have worked with the EU, as we have management over the North Sea stocks together with the EU, very much to try to have harmonised technical regulations because it will be much easier both for our industry and the EU industry if they are allowed to use the same gear and adhere to the same regulations in the whole of the North Sea basin. That would be a very good situation for the industry. That has not always been possible, so we have had, to a large degree, national regulations that apply in our waters both to Norwegian and foreign vessels when they are fishing in our waters. So the main element here is that a discard ban is not enough in itself and the regulations have to be built up under a discard ban. The big task that lies ahead for the Common Fisheries Policy is to try to develop that situation, and that philosophy must be recognisable throughout the system. I would say that that is the main difference between the Norwegian and EU management philosophies. It is very positive that reform of the CFP introduced a landing obligation and we certainly have every intention of working together with Brussels and other jurisdictions to implement this.

Sigurgeir Thorgeirsson: Looking at the total difference between the CFP and our policy, first, there is a difference between Iceland and Norway in that more than 70% of the fish we catch are local stocks and there are not many that we share with others—but we will come to that later in the session. I would say that the official objectives of both policies are very similar: that is to say, aiming for environmental, economic and social sustainability. However, there are huge differences in circumstances, legislation and methodology.

First, our fisheries, as I said earlier, are a major provider to the Icelandic economy, whereas in the EU as a whole fisheries are a minor sector—less than 1% of GDP and subsidised. I realise of course, however, that fisheries are extremely important for certain towns and areas, particularly some places in this country of course. This obviously affects the way the sectors are approached. In Iceland, there is a much greater emphasis on efficiency and profitability, and partly at the cost of social aspects, I must admit, whereas rural and structural considerations seem to weigh more in the CFP. Iceland, and Iceland alone, has full

control over the 200-mile EEZ, which is an obvious advantage when it comes to managing the local resources; we need no compromise on that. Like my Norwegian colleague said, we can set our own rules for nets, et cetera. While in both instances the total allowable catches are based on scientific advice, the outcome in the European Union often deviates considerably from the advice as a result of a compromise between states. In Iceland, one Minister takes this decision and, as I said before, follows the advice—and hopefully will continue to do so.

Like Vidar said earlier, in the European Union limitations on fleet capacity and time spent at sea—that is to say fishing effort controls—have been important but ineffective measures in fisheries management, whereas in Iceland the catch limitations are almost exclusively based on catch quotas, and this system has automatically resulted in a great reduction of the fishing fleet. That is to say, it is the amount of fish that fishermen are allowed to catch that controls the development of the size of the fleet. We have no concern over the size or number of the boats; we leave it up to the industry to decide how they can catch the fish most efficiently and economically.

The decision-making process in Iceland is much simpler and closer to the actions of the industry than in the EU: thus catch quotas can be revised and changed within the fishing season if new scientific research supports such a change. This is often the case with capelin fisheries, but that fish is often difficult to evaluate. If juvenile fish are detected in the catches, the Marine Research Institute and the coastguard have the power to close fishing areas with immediate effect for 14 days for their protection: all they need to do is put an advertisement on the radio. Skippers are obliged to listen to the radio at certain times of the day. They will start with it as a closed-off specified area for a couple or three days and, if the same area is closed three times in succession, the Minister of Fisheries steps in and closes off the area for a longer period with a regulation.

As I said earlier—and sorry about the terminology—ineffective management in the European Union has failed to stop overfishing, although some positive progress has been achieved in the last few years. Most of our local fish stocks are in good shape and we have managed to build up the very important cod stock which was overexploited for a long time. I do not think that I need say anything more about discarding as it should be gradually disappearing from the CFP system.

Finally, I should mention the marketing system, which is totally different in Iceland compared to the European Union. In the European Union, the producers' organisations can take

produce off the market if prices fall below levels set by the Council of Ministers and get compensation from community funds. This is very much like the agricultural system as it used to be. In Iceland, there used to be a system for setting fish prices, but this was abolished a long time ago and the market is absolutely free for all fish products. About 97% of the fish are exported to some 80 countries, the United Kingdom being by far the most important single market—hence we are concerned about developments from now on. The bigger companies, with some 80% of all fish, are vertically integrated so that they control the whole value chain from catching through processing and selling to wholesalers or retailers in different countries. This, in conjunction with the quota system, is a key factor in securing the steady supply and thus maximising the value of the product.

Lord Curry of Kirkharle: Thank you.

The Chairman: Do you want to make a quick supplementary comment?

Vidar Landmark: Yes, I will very briefly follow up on what my colleague from Iceland said. He said that the Icelandic fishing fleet is economically a very efficient fishing fleet compared especially to the EU which has a fishing industry which is, in some ways, still subsidised. In the Norwegian system, we do not have any subsidies, but we have restrictions on the development of our structural system (capacity adjustment system), which places us a bit between Iceland and the EU when it comes to the balancing of economic efficiency and social considerations.

One important difference between the EU system and the Norwegian system is that we have exemptions from the EEA agreement when it comes to the ownership of fishing vessels, so we still have the possibility of having a policy of national ownership of our fishing vessels. We have restrictions on the use of foreign crews as at least half the crew on a fishing vessel have to be living in a Norwegian coastal community—so that is also a very big difference from the EU system. For instance, Britain has had some difficulties establishing a real economic link between vessels and activity, so that has allowed us to keep our fishing vessels under Norwegian ownership through the exemptions to the EEA agreement.

The Chairman: That is most interesting.

Viscount Hanworth: Mr Thorgeirsson, you said that the total allowable catch has adhered closely in the last four years to the scientific advice with, seemingly, the implication that there had been departures previously. Can you expand on that?

Sigurgeir Thorgeirsson: I said that the Minister has followed the scientific advice all the time with only minor deviations, but there were bigger deviations earlier on.

Viscount Hanworth: When?

Sigurgeir Thorgeirsson: This system has been in place more or less since 1984, but deviating by more than 10% to 15% in some major stocks has never happened. The basis for the advice has been improving all the time, but in some of the less important stocks where people did not believe the scientific basis or where there had not been a lot of research into some of the stocks, maybe regulation deviated considerably from the advice.

Viscount Hanworth: We have the impression that after 1997 there was a substantial deviation. Is that correct or not?

Sigurgeir Thorgeirsson: It is a bit complicated. There have not been major deviations after 1997, I would say.

Viscount Hanworth: You would say that, would you?

Sigurgeir Thorgeirsson: Yes. However, in 2008, following the crash, it was decided to increase the quota of cod by 30,000 tonnes, which was about 20%—but two years earlier it had been cut down by more than 30% because we thought we were very rich at that time and said, “Now is the chance to go and follow the strictest catch rules that we can possibly follow”. So, even if it was increased for one year by 30,000 tonnes, it was considered to be well within the range of the advice.

The Chairman: I think we have that, thank you. Lord Selkirk.

Q14 Lord Selkirk of Douglas: I think you have answered, to a large extent, the questions I am about to ask, but, for the sake of clarity, can I go through them very quickly in case there is anything you want to add? Under the UN Convention on the Law of the Sea, coastal states are obliged to co-ordinate the sustainable management of straddling stocks. How do you approach this international obligation and, in particular, how do you determine the total allowable catches and quotas in your own EEZs with the EU and with non-EU coastal states?

The Chairman: You have given us the scientific advice, so we have done that bit.

Vidar Landmark: I will not talk about the scientific side of this now because our situation in Norway is that most of our important stocks are shared with other countries, which is quite a different situation from Iceland. We have bilateral agreements on the management of shared stocks with Russia in the north and with the EU in the south, and we have agreements, more or less, when it comes to the pelagic stocks in the north-east Atlantic between the different countries that are coastal states to those stocks. I am talking about, for instance, mackerel, Norwegian spring-spawning herring and blue whiting. For herring, there are five coastal states: the EU, the Faroe Islands, Iceland, Norway and Russia. So we

have to agree on a total allowable catch among all the participants. The total allowable catch is set for most of the Norwegian stocks in negotiation with other countries and, for all the jointly managed North Sea stocks, in negotiation with the EU. The total allowable catch for Norwegian vessels will follow the agreed sharing of the total catch agreed between the parties. That is the practical, technical way this is done. We have one major stock that is a unilateral Norwegian stock.

Lord Selkirk of Douglas: What role do regional fisheries and marine organisations have in your approach to international obligations? How are potential disputes or disagreements over the total allowable catches and quotas resolved?

Vidar Landmark: In the north-east Atlantic and this north-east corner of the north-east Atlantic, most waters are under national jurisdiction. If you picture Norway on a map, there are neighbours all around us with only small pieces of international waters, so most of the stocks of interest to the Norwegian fishing fleet are stocks that are managed by these coastal states. The regional fisheries management organisation here, NEAFC, the North-East Atlantic Fisheries Commission, in reality has a rather limited role when it comes to stock management and only manages fishing in those two small international areas of the north-east Atlantic, the Norwegian Sea and the Barents Sea. The main thing here is the coastal state co-operation, but we nevertheless place great emphasis on working through the RFMOs to develop co-operation, especially when it comes to harmonisation of technical regulation and control.

Lord Selkirk of Douglas: Thank you very much. May I say that I have greatly enjoyed visits to Iceland with my family? It is a very exciting place to visit.

The Chairman: Absolutely. Perhaps Mr Thorgeirsson would like to come in on this point?

Sigurgeir Thorgeirsson: I think my colleague has really covered this field and the same applies to us, except that there are only eight fish stocks that we share with others. Over 70% of the total catch is, like I said, from local stocks.

The Chairman: I have to ask one question here, particularly to our Norwegian friends. Does your fishing industry ever try to put pressure on the Government by saying, “Let’s have our EEZ all to ourselves. We have a fantastic volume of sea, we have rich fish stocks, so why don’t we just expand our fleet to take full benefit of our own EEZ and leave it at that”?

Vidar Landmark: No, they do not because some of the fish stocks we have in Norwegian waters could survive in Norwegian waters only, but other stocks are dependent on using other zones for parts of their life cycles. The coherence between the Norwegian zone and

the Russian zone in the Barents Sea is very important, especially to the cod stock, which is our most important stock, and the herring stock, which is our second most important stock. The cod and herring need both the Norwegian zone and the Russian zone, so isolating us from our neighbours would jeopardise the situation for those stocks—and our industry also sees this.

The Chairman: Thank you.

Baroness Wilcox: Can I just add that it is nice to hear it explained so well? The fact of the matter is that you cannot tell the fish to stay where you want them to be. The pelagic fish are shoaling fish and, when they move, they can move faster than the boats, so it is quite interesting to hear your answer. Thank you very much for that.

Vidar Landmark: Sometimes we hope that they would not do.

Baroness Wilcox: Exactly.

Q15 Lord Krebs: You covered some of the points I wanted to raise about what types of fisheries agreements you have with the EU or with non-EU coastal states in answer to Lord Selkirk. You have described that you have quite a number of such agreements, but perhaps you could tell us a bit about how often those agreements are reviewed or renegotiated and unpack a little bit more what they cover? You have talked about the technical aspects of fisheries, but could you tell us a bit more about what the agreements cover on monitoring, enforcement and exchange of information?

Sigurgeir Thorgeirsson: We have only one bilateral agreement with the European Union, which goes back to what was done in conjunction with the EEA agreement in 1994. This involves the European Union being allowed to catch 3,000 tonnes of redfish in our waters and we get 30,000 tonnes of capelin which, in turn, the European Union buys from Greenland and is caught within our waters also. This agreement has been dormant now since 2009, but we consider that it will be looked at closely this autumn. It was not functioning and there were difficulties in access conditions that the European Union was not happy with, so we just agreed in 2009 to let it stay like this; neither of us is getting any benefit from it. It is going to be considered again.

We have some bilateral and trilateral agreements with the Faroe Islands, Greenland, Norway and Russia. Usually, these agreements involve some quota sharers specifying access conditions, as well as control and enforcement clauses. In some cases, there may be some clauses on co-operation and research, so usually the whole aspect of the fisheries, with

research, sharing, control and enforcement, are involved in these agreements—but they differ one from another.

Vidar Landmark: For the Norwegian side, it is a little bit different. As I have already said, we have neighbours all around us and we share stock with them, so we have to have agreements on most of our stocks. With Russia and the EU, there is a framework agreement with Russia, from 1976 I think, and with the EU from 1980, which set up how the co-operation should be executed. The important negotiations are done yearly to set the total allowable catch and agree on mutual access to our zones: that is a regular process which takes place in October, November and December every year.

In addition, there is ongoing co-operation under these agreements where we try to work on—as I touched on earlier—harmonisation of technical regulations and reporting requirements and try to co-operate on control and enforcement. That will be an ongoing process. Between Norway and Russia, there is a set-up with technical committees and sub-committees of experts and enforcement authorities, so there is a whole institutional framework of Norwegian-Russian co-operation under the Fisheries Commission. We certainly will look at that and come back to that in negotiations between Norway and the UK on a new fisheries agreement. We will take the example from the set-up we have with the Norwegian-Russian Fisheries Commission to see if that is something that could be implemented in our bilateral co-operation.

The Norwegian-Russian Fisheries Commission has proved itself to be a better example for bilateral co-operation than the Norwegian-EU co-operation, which is very natural as it is between two states. The Norwegian-EU co-operation is between Norway, one state, and an entity of I do not know how many interested fishing states with very varying interests in the total agreement between Norway and the EU—so that is why we will look at the example of the Norwegian-Russian Fisheries Commission when we come back to the UK later.

The Chairman: Lord Rooker, you want to follow up on that.

Lord Rooker: Without disclosing any particular examples, when you are doing these negotiations, does fishing ever get mixed up and traded with other negotiations which do not involve fishing, or is it the case that for both countries the fishing is so important that it overwhelms any other give or take on other issues?

Sigurgeir Thorgeirsson: For Iceland, fishing is the overwhelmingly important sector in that sense. However, we have had a very difficult time over the last few years concerning disagreement on mackerel and now also on blue whiting and the Norwegian spring-spawning

herring. The coastal states have not been able to negotiate an agreement, so we have actually been exploring the idea of putting all the stocks on the table at the same time and not negotiating the stocks separately and possibly bringing in other interests such as market access. For us, it is the economic profit that matters and, if we get fewer tonnes caught, it does not matter if we get a better price for it; it is the money that matters. We will help in seeking improved access for certain products into the European Union and we are ready to trade, to some extent, on the fisheries agreement versus market access agreements. This has not been the customary way to negotiate on fisheries, as my Norwegian colleague can confirm, but this has been explored a little behind the scenes.

The Chairman: I would be very interested in Norway's comments on Lord Rooker's question.

Vidar Landmark: Norway has not participated in that exploration behind the scenes. We have a very firm stand that fisheries negotiations should be fisheries negotiations and not make any connections to other disputes between the involved countries. I can say in capital letters that, for us, that has not happened since the negotiations on the EEA agreement at the beginning of the 1990s. After that, the fisheries negotiations have been fisheries negotiations—no more, no less.

The Chairman: We will come on to market access later, but it does not get mixed up with it either?

Vidar Landmark: No.

The Chairman: Thank you. Baroness Wilcox.

Q16 Baroness Wilcox: I will declare my interests. I come from the pelagic processing area in inshore fleets and from experimental lobster hatching in Cornwall. I want to ask you about Skagerrak and Kattegat, which are very interesting at the moment. As you can see, we are about to launch off into all sorts of new ideas and nice things, and it is lovely to listen to both your countries being able to have the freedom to be careful with your stocks and not let other countries come in and be not quite so careful with those stocks. It is very interesting to hear how firm you both are on this, and we must take lessons from that. We note with interest that you have recently negotiated a new agreement regarding the reciprocal access for you, Denmark, Sweden, et cetera to fishing in Skagerrak and Kattegat. How does this agreement differ from your general fishing agreement with the European Union, and does the Skagerrak agreement allow more flexible management of the regional basin?

Vidar Landmark: The main element in the Skagerrak agreement is to preserve a very old fishing pattern which allows fishermen from Norway, Denmark and Sweden to fish outside four nautical miles of the baselines in each parties water instead of the usual 12 nautical miles from the baselines, which most countries now practise when they allow other vessels into their waters. That is the main element and there has been a strong wish from all three countries to have that possibility in the Skagerrak area. It is a traditional way of utilising the resources in that area. We are also trying to negotiate more flexible ways of border-crossing fisheries. If a UK vessel is fishing in the North Sea and wants to enter the Norwegian zone in the North Sea, there are strong requirements for reporting a certain amount of hours before, reporting the catch and so on. In the Skagerrak area, there is traditional fishing that goes on at the borderlines between especially Norway and Denmark, which has the most interest, but also with Sweden. We are negotiating and trying to find ways that make it possible for us to have the necessary control over activity in our zone at the same time as allowing that fishery to go on: trawl fishery, where you start in Danish waters and end up in Norwegian waters with the same haul, for instance. My colleague who has participated in the negotiations would say that it is difficult—but we are still trying.

Baroness Wilcox: It took quite a long time to establish this.

Geir Ervik: There were issues of control, but also of catch statistics and the registration of the catch in the zone, so we are trying to develop a system where we can see how much is caught in, for instance, Norwegian waters. We are using a vessel-monitoring system and an electronic reporting system developed by the Directorate of Fisheries to analyse the hauls which are cross-bordering and then we can better determine where the catches are caught, which is a large improvement. I think we agree that we will have a system in place there in the near future.

The Chairman: Is this a bilateral agreement with Denmark and Sweden?

Geir Ervik: Formally, we negotiate with the EU because the Commission has the competence to negotiate with third countries, but it is the Commission that negotiates on behalf of Sweden and Denmark.

The Chairman: Thank you. Baroness Sheehan.

Q17 Baroness Sheehan: My question will inevitably cover some of the ground which has already been covered, but it would be good to get all the information in one place. The North Sea, in particular, is an area of interest to EU and non-EU countries alike. How do you approach the management of this area with the EU and with other non-EU coastal

states? We have had a response about the Norwegian-Russian Fisheries Commission and how you undertake negotiations there, but one area I would like to concentrate on is how potential disputes over TACs and quotas, if and when they arise, are resolved?

Vidar Landmark: There are no special provisions for the resolution of disputes in the agreements between Norway and the EU, so we will just have to find a solution and agree. The dispute settlement mechanism is that, if we do not reach a bilateral agreement, for instance for 2017, our vessels will not get access to the EU zone and the EU vessels will not get access to the Norwegian zone. We will set unilaterally total allowable catches for our own waters of the stocks that should have been managed jointly. This is a situation that we really do not want to end up in. There is no formal dispute settlement mechanism, but there is a strong push for reaching agreement to allow our fishermen and businesses to work out at sea from January next year.

Baroness Sheehan: How close have you been to not reaching agreement with the EU?

Vidar Landmark: We have been in that situation. We were in that situation last in 2014 when we did not reach agreement with the EU in December 2012, which was due to the negotiations on mackerel. The Commission said that it would not enter into a bilateral agreement with Norway until the mackerel negotiations had found solutions, so we started 2013 without an agreement. We then set national quotas for the stocks that should have been bilaterally managed, so our vessels started fishing in our zone based on those quotas we had set nationally and no EU vessels were allowed into the Norwegian zone until later in the year—I think it was March—when we reached an agreement with the Commission.

Baroness Sheehan: Do you mean no EU vessels or just those EU vessels which were fishing for mackerel?

Vidar Landmark: No EU vessels.

The Chairman: Thank you. Viscount Hanworth.

Q18 Viscount Hanworth: What is your approach to establishing access rights for foreign and EU vessels to fish in your EEZs? Has there been a role for traditional historic rights in determining these agreements?

Vidar Landmark: Activity from before the EEZs were established was the starting point when the need for bilateral agreements came up in the late 1970s, when all countries around this area established 200-mile economic zones. Traditional activity was the starting point which showed what levels of catches and activity we should try to reach agreement on for our different zones—but that was only the starting point.

What we do today must be separated into two elements when it comes to the bilateral Norway-EU agreement. We have the shared stocks in the North Sea, where we try to let our fishermen fish where it is most profitable, whether or not that will be in the Norwegian zone or the EU zone—so it is an integrated part of the bilateral yearly agreement setting quotas and agreeing how much of the Norwegian quota can be fished in EU waters and how much of the EU quota can be fished in Norwegian waters. Here we are not taking particularly into consideration historical catches. Today, we are more concerned about a good fishing pattern. Should fishing go on in the Norwegian zone because there are feeding grounds and spawning grounds in other places where the fish should be left alone? If there are small fish in that area, both Norwegian and EU vessels should fish in Norwegian waters where the fish are bigger, for instance.

Quota exchange is a different situation. There is an important element of quota exchange between Norway and the EU where Norway traditionally offers the EU a certain quantity of cod in the Barents Sea and the EU offers Norway blue whiting in particular as payment for this. Now we are operating where the offer from Norway is based on a historic fishing pattern, but the EU has to pay for this quantity and does not get more than it is able to pay for. So the starting point is the historical fishing pattern, but the end point depends on the quota situation in the various fisheries. If the cod stock is low and our offer is for a low quantity and the blue whiting stock is in good shape, then the EU is able to pay for more.

The Chairman: Mr Thorgeirsson, did you wish to come in on that question?

Sigurgeir Thorgeirsson: I have very little to add, except to say that there are no fishing rights within our economic zone based on historic rights, although it is right, as my Norwegian colleague said, that the negotiations on fishing rights had certain historic references prior to the extension of the economic zone. A number of such access allowances are made in agreements with other countries.

Lord Krebs: I just wanted to follow up your very helpful comments by making sure I am clear in my own mind that, when you have had this disagreement with the European Union, am I right in thinking that it is not about the scientific evidence or the size of the stocks but is more about the relative values of two different fish species—a kilo of cod versus a kilo of whiting and what the trade-off is? Is that the way to look at it?

Vidar Landmark: It is not a difference in estimating the value of the balance of the exchange. We have a fixed system negotiated many years ago on how much blue whiting you must pay for one kilo of cod.

Lord Krebs: Where does the disagreement lie, then?

Vidar Landmark: In the ability to pay. The cod stock today is in very good shape, so our offer to the EU for 2016 was 36,000 tonnes, but the EU did not have enough blue whiting to pay for that much cod—or the EU had enough, but there would not have been enough for Member States to fish. For 2016, I seem to remember that the EU cashed out something like 20,000 tonnes of the 36,000 tonnes offered.

Geir Ervik: In addition to blue whiting, we are fishing for ling and tusk in EU waters and we fish for stocks in Greenlandic waters, all of which goes into the exchange package. As we said, we have to be offered real fishing possibilities for Norwegian fishermen either in EU waters or Greenlandic waters for the full offer, and the EU has chosen since 2010 not to take the full offer because it has no fishing possibilities to offer us.

The Chairman: Thank you. We will now move on to the market and trade side. Lord Trees.

Q19 Lord Trees: As the Lord Chairman said, I want to ask about trade and the arrangements and agreements you have made with the EU in trading fish and fish products. It is quite complex, but could you tell us what agreements you have on direct access and how that might be different if you are landing in your own country and then exporting, or do you have agreements if you can land directly in EU countries? Perhaps we can consider as well fish products and what arrangements you have for them as well.

Sigurgeir Thorgeirsson: First, I should take the opportunity of correcting something. I may have given the view that we mixed fisheries agreements and trade agreements altogether, which is absolutely not so. Fisheries agreements are fisheries agreements, but we might lubricate fisheries agreement solutions with access conditions, if possible—but they are never a major component in fisheries agreements.

Trade in fish and other marine products between Iceland and the European Union is governed by two agreements: the agreement on the European Economic Area and the Free Trade agreement between Iceland and the European Economic Community from 1972, so these two agreements are applicable. The rules applicable to trade in fish are set out in Protocol 9 to the EEA agreement which provides for the elimination of tariffs on some of Iceland's key export interests, including cod and haddock. It also provides for the reduction of tariffs on a number of products, but excludes some, including products of interest to Iceland such as herring. The Free Trade agreement from 1972 is still applicable, but Protocol 9 of the EEA provides better market access for most products. However, there are some

exceptions and in these cases the market access provided by the 1972 agreement prevails. The 1972 agreement has been amended a few times in the last years to provide for better market access notably for herring, redfish and lobster.

Article 5 of Protocol 9 of the EEA agreement states: “The Contracting Parties shall take the necessary measures to ensure that all fishing vessels flying the flag of other Contracting Parties enjoy access equal to that of their own vessels to ports”. To enjoy the preferential treatment provided for in either the EEA agreement or in the 1972 agreement, any export needs to fulfil the requirements and the rules of origin of either agreement. In general, fish caught by a vessel of one contracting party is considered to be originating in that contracting party. My understanding is that, if our ships land fish in Hull or Bremerhaven or wherever within the European Union, the tariffs and instruments are the same as if the product had been landed in Iceland and exported from there.

Lord Trees: That is helpful. I am not familiar with those articles. Is it tariff-free or does it vary with the species of fish?

Sigurgeir Thorgeirsson: It varies with the type of fish. There are certain fish that are absolutely tariff-free. There are a lot of 2% to 5% tariffs and there are still a few with 18% to 20% tariffs, including herring, whole mackerel and some others.

Vidar Landmark: It is more or less the same situation for Norway. Even though the EEA agreement does not cover trade in fish, Protocol 9 gives us free trade for close to all our white fish products: that is, products from cod, haddock and saithe. The sensitive products for the EU, which Sigurgeir touched upon, where we still have tariffs or quotas for import into the EU market, are salmon, herring, mackerel, shrimp, Norway lobster and scallops. The tariffs for these products range from 2% to 25% for Norway, so both the tariffs and the export quotas to the EU market on those products are still a serious obstacle to trade. When it comes to the landing of fish directly from vessels, there are no restrictions from the Norwegian side on the possibility of our vessels landing in other countries. When landing in other countries, they have to adhere to all Norwegian reporting requirements and the requirement to sell the catch through one of our first-hand sales organisations, but this is not any kind of hindrance for landing in other state ports. When landing from a Norwegian vessel in an EU harbour, that is considered to be an import to the EU in the same way as transportation by other means, so it would have to adhere to all the same regulations both with tariffs and all the other customs arrangements. It is a complex matter when you start looking into the nomenclature of trade.

Lord Trees: Can I follow up with a specific question about salmon and aquaculture? I live in Scotland and that is the only interest I have—but, as you well know, it is a hugely important industry now in that part of the UK and is also an important industry in Norway. My understanding is that a lot of the salmon farms in Scotland are owned by Norwegian companies. In view of what you said about the restrictions you have vis-à-vis salmon, would Brexit have implications for that Norwegian investment in British salmon aquaculture?

Vidar Landmark: That is dependent on what kind of regulations the UK might come up with when it comes to the ownership of aquaculture activity. There are obviously no restrictions from the Norwegian side on the possibility of Norwegian companies establishing themselves in other countries, except in some special cases where there might be embargoes or something, but not on this matter.

Lord Trees: I can understand that. You may not wish to answer this, but are there currently advantages in you having companies in Britain producing salmon to export to the EU which would no longer pertain if the UK were not in the EU?

Vidar Landmark: I am in the happy position of being able to answer that that depends on what kind of agreement the UK gets.

The Chairman: We were hoping you might shed some light on that.

Vidar Landmark: If you are able to negotiate free access for salmon from the UK into the EU market, we will be very glad of that example.

Lord Trees: But you have not managed to do that.

Vidar Landmark: We have not managed to do that largely due to the Scottish producers.

Lord Trees: That is very interesting.

Vidar Landmark: It also gives me the opportunity to mention that we have very good co-operation with Marine Scotland on exchanging views and experiences on aquaculture management. I am going to Edinburgh on Friday next week for our yearly meeting on aquaculture issues where we exchange lessons learned and so on in our management, together with Canada and Chile.

The Chairman: That is very interesting to hear.

Lord Selkirk of Douglas: I understand that historically you have had a lot of association with Denmark. Does Denmark have any influence at all on this question of fisheries?

Sigurgeir Thorgeirsson: Are you talking about Iceland, Norway or both?

Lord Selkirk of Douglas: The fisheries policy of Iceland or Norway on Denmark.

Sigurgeir Thorgeirsson: No influence whatever since 1944.

Vidar Landmark: Not since 1814.

The Chairman: Believe it or not, some of our witnesses probably would have liked to have gone back even further than that on certain fishing rights. Lord Rooker, you have a question, a lot of which we might have covered.

Q20 Lord Rooker: Yes, we have covered a lot of it so I will phrase it in a different way. I have no interests, although 10 years ago I spent Christmas in Reykjavik which was a very pleasant experience. We heard some evidence in our previous sessions that, in the last 10 years, the Common Fisheries Policy has been a big success compared to the 20 preceding years. I am not asking you to comment on that, but what at the moment do you see as the present advantage for your fisheries management of not being in the Common Fisheries Policy?

Sigurgeir Thorgeirsson: I think we have partly covered that. First, we have full control over our economic area and we do not have to negotiate with other countries on the utilisation and management regulations, et cetera, within the zone. That is an advantage.

The Chairman: That is partly because you have your own continental shelf, do you not?

Sigurgeir Thorgeirsson: Yes. Obviously that would be somewhat different if there were so many stocks shared with others, but being able to control the local stocks and the regulations there matters and we have full legislative power of course over that. As a coastal state, Iceland negotiates on the management of straddling stocks and we have direct representation in regional fisheries management and in other international organisations concerning fisheries. Yes, it is true that the CFP has had improvements in success in the last few years, but I still think that the differences in policies I described earlier are to our benefit. We are freer to control our fisheries than we would be within the European Union and I believe that that has brought benefits to the country.

Vidar Landmark: I can agree with most of what my Icelandic friend just said. Norway, unlike Iceland, is in the position where we know what kind of agreement we were able to negotiate back in 1994, so we know what kind of conditions we would have to accept as a member of the Common Fisheries Policy, although you did not get that far in your negotiations. It should be emphasised that not being part of the Common Fisheries Policy gives us the possibility of a far more dynamic approach to fisheries management and being a short way from realising a situation and deciding how to handle that situation, including what changes to make from January to February to March according to what is actually happening at sea, how the season is developing in our fisheries, which is more or less one telephone call from

what is happening at sea, until a decision is made in our directorate to alter some kind of regulation or make an adjustment to quota distribution. Inside the Common Fisheries Policy, you are a very long way from experiencing that something needs to be amended until the decision is taken, in many cases, not in London and not in the Commission but in co-decision between the Council and the Parliament on some issues which, in our jurisdiction, would have been solved with a far lower level of administration.

Q21 The Chairman: Thank you. That is a very interesting example. We are at some point, as a nation, going to have to go into negotiations with the European Union on resolving our relationship with the CFP, and I wondered what advice you could give our negotiators? What would you tell them to look out for?

Sigurgeir Thorgeirsson: To be perfectly honest, I have considered this question and I am not in a position to be able to give you any good advice. Secondly, as we may have to negotiate with you, I am not sure it would be wise of me to do so.

The Chairman: Surely you can share your thoughts with us just for a moment.

Sigurgeir Thorgeirsson: For Iceland, the United Kingdom is by far the most important market for fisheries and fish products and will be a very important coastal state to the fish stocks that we share with others. I can only say that I hope for a very good relationship, that we maintain the market co-operation and market access and find a way to resolve our difficulties in the north-east Atlantic over the pelagic stocks and that Britain is strong in supporting that. That is the only advice I can give.

The Chairman: Thank you.

Vidar Landmark: I have a brief comment as I see we are running out of time. For us, Britain is also a very important market, our third or fourth biggest market overall, and it is our most important market for white fish, so we are also very eager to start negotiations with the UK on the conditions for market access when it comes to that.

On the obstacles, there is one element in the reformed Common Fisheries Policy that we have looked very much into and see as a very difficult development for the future, and that is the concept of regionalisation. I can see the use of this very important element for developing the fisheries policy inside the Union. What is now happening is that the UK and the other countries around the North Sea area are negotiating between themselves on technical regulations and other management measures first and, after those countries have done that, the EU will come back into negotiations with third parties, having already more or

less exempted, if that is the right English word, the possibilities of compromise in their own process.

When the UK is in a position to negotiate with the EU, you will face the same situation, that much of the room for compromise in the negotiations has already been taken by the regional processes inside the Union before the Union comes back to negotiate with you. This is not a question of a framework agreement, for instance, on fisheries management between the UK and the EU when the time comes necessarily, but it is a question that you will meet in the year afterwards in the bilateral yearly agreements, unless you reach agreement with the EU in the framework negotiations on how to have some kind of position in the regional discussions. We have been discussing this with the Commission since it started working on the concept of regionalisation, but have not been able to come into this process yet. That is a real obstacle to co-operation.

The Chairman: That is very helpful indeed. Lord Curry.

Lord Curry of Kirkharle: I am very interested, Mr Landmark, in your comment that you saw your agreement with Russia as a potential template to start and open negotiations with the United Kingdom, but my question is for Mr Thorgeirsson. Do you have a template in mind in Iceland as your starting point for your negotiations with the United Kingdom? Secondly, I was really interested in your comment that you were concerned about the current movement of fish stocks and the fact that you needed to take that movement into account in your current agreements. I think I am right in saying that, as a consequence of global warming, mackerel and other species have moved north into Icelandic waters. Has the predicted impact of climate change ever formed part of your thinking in your negotiations with other countries?

Sigurgeir Thorgeirsson: In the last few years at least, people are thinking along those lines, although our scientists do not necessarily attribute this movement of the stock to global warming. There have always been waves of hot or warmer periods and cooler periods and we have records of mackerel coming into our waters as early as the 19th century, but never probably to the same extent as in the last few years. We do not have a template, as you put it, on how to start the negotiations with the United Kingdom. We have been taking part in negotiations with the European Union, Norway and the Faroe Islands on the mackerel stock and we have not managed it yet, but, as you probably know, there is an agreement in place between the European Union, Norway and the Faroe Islands which we hope to become a part of because it is our sincere wish to reach a full agreement on all these stocks. The

result of the disagreement is that these stocks have been grossly overfished, according to scientific advice, although the mackerel stock still seems to be very strong, despite this massive overfishing. That comes down to the uncertainty of this science, but we have nothing better than the science to follow, so it is absolutely essential to reach agreements on these stocks. I would hope we have finished that before the United Kingdom comes out of the European Union and, if we have not, I trust that you will be supportive in completing those agreements when it comes to it.

The Chairman: A very quick comment, please, Director General.

Vidar Landmark: The Norwegian-Russian one could be some kind of template for the future between Norway and the UK. It is still to be considered whether or not the North Sea management will be bilateral Norway-UK and bilateral UK-EU or trilateral agreements, so that is one of the questions we are starting to look into.

The Chairman: On that point, perhaps I could bring this hearing to an end and thank our witnesses, Mr Ervik, the Director General and Mr Thorgeirsson. Thank you very much indeed for coming so far to give us evidence which we will find extremely valuable. Thank you very much indeed.

DEFRA — Written Evidence (FBR0001)**Catches****1. How much do UK fishermen catch, in tonnes and value, per year?**

Table 1 shows landings of fish by UK fishermen over 2011-2015, with an annual average over this period. This includes landings of fish both into UK and non-UK ports. In some cases fishermen may also choose to discard fish they catch at sea, but we do not have data on the total amount of discards.

Table 1: Landings of Fish by UK vessels, 2011-2015.⁵² All value of landings data is in nominal terms (i.e. has not been adjusted for inflation).

Year	Volume of Landings (tonnes)	Value of Landings (£m)
2011	596,000	£832m
2012	628,000	£788m
2013	627,000	£741m
2014	756,000	£861m
2015	707,000	£775m
Annual Average (2011-2015)	663,000	£800m

2. Where do UK fishermen catch their fish, in tonnes and value, per year?

a. How much is caught in the UK 6 mile zone, 12 mile zone and outside the 12 mile zone but inside the EEZ?

The evidence for these questions is based on provisional analysis by the Marine Management Organisation.

Catches by vessels are reported by sea areas known as ICES rectangles. ICES rectangles are 0.5° of latitude and 1° of longitude. Data on catches cannot be broken down to a more detailed resolution; as a result, it is not possible to estimate catches within the 6- or 12-mile zones.

However, it is possible to estimate the amount of landings caught within the UK's EEZ by UK vessels. This is subject to uncertainty where the UK's EEZ straddles an ICES rectangle, so we have provided a range based on:

Low estimate: where the UK's EEZ straddles an ICES rectangle, assuming all catches reported within that rectangle occur outside the EEZ.

Best estimate: where the UK's EEZ straddles an ICES rectangle, assuming that the proportion of catches reported in that ICES rectangle caught within the UK's EEZ is the same as the proportion of the ICES rectangle within the UK's EEZ.

⁵² Data for 2011-2014 sourced from Marine Management Organisation "Annual Sea Fisheries Statistics 2014", Table 3.1, available here: <https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2014>. Data for 2015 is provisional, and has been sourced from Marine Management Organisation "Monthly Sea Fisheries Statistics December 2015" Table 3, available here: <https://www.gov.uk/government/statistical-data-sets/monthly-sea-fisheries-statistics-december-2015>

High estimate: where the UK's EEZ straddles an ICES rectangle, assuming all catches reported within that rectangle occur inside the EEZ.

Based on this methodology, our best estimate is that UK vessels landed 557,000 tonnes of fish caught within the UK's EEZ, with an estimated range between 526,000 and 570,000 tonnes. Our best estimate is that this is worth £614m in revenue, with a range between £562m and £632m.

b. How much is caught in other European countries' 6 mile zone, 12 mile zone and outside the 12 mile zone but inside the EEZs?

Analysis for this question follows a similar methodology for question 2a. As previously, it is not possible to provide data on the 0-6 and 0-12 mile zones as data are not available at this resolution. The range of estimates on UK fishing activity in other countries' EEZs is based on:

- Low estimate: where the UK's EEZ straddles an ICES rectangle, assuming all catches reported within that rectangle occur inside the UK's EEZ.
- Best estimate: where the UK's EEZ straddles an ICES rectangle, assuming that the proportion of catches reported in that ICES rectangle caught in other countries' EEZs is the same as the proportion of the ICES rectangle within other countries' EEZ.
- High estimate: where the UK's EEZ straddles an ICES rectangle, assuming all catches reported within that rectangle occur inside other countries' EEZ.

These estimates include fishing in the waters of EU member states, in the waters of 3rd countries such as Norway. It does not include fishing by UK vessels in international waters; hence the sum of activity described in answer to questions 2a and 2b is less than activity reported in answer to question 1. Based on this methodology, our best estimate is that UK vessels landed 144,000 tonnes of fish caught outside of the UK's EEZ, with an estimated range of 132,000-176,000 tonnes. Our best estimate is that this is worth £155m in revenue, with a range between £137m-£207m.

c. Which species are caught in other European countries' territorial waters and where?

Table 2 below shows our best estimate of landings by UK vessels of fish caught in other countries' EEZs for the main species caught, broken down into those caught within the EEZ of EU member states and third countries.

Table 2: Landings by UK vessels of fish caught outside of the UK's EEZ by species and area of catch, 2015.⁵³

Species	EU Member States' waters		3rd country waters		Total	
	Tonnes	£m	Tonnes	£m	Tonnes	£m
Mackerel	48,000	£33m	6600	£5m	54600	£37m
Cod	300	£1m	16000	£24m	16300	£25m
Plaice	10500	£13m	800	£1m	11400	£14m
Monks	3700	£12m	300	£1m	4000	£13m

⁵³ Rounded to nearest 100 tonnes / £m

or Anglers						
Hake	3800	£9m	2000	£3m	5700	£11m
Haddock	400	£1m	6900	£10m	7400	£10m
Scallops	2300	£5m	0	£0m	2300	£5m
Others	37800	£35m	4700	£5m	42400	£40m
Total	106800	£108m	37300	£48m	144,100	£155m

3. Where do UK fishermen land their catches, in tonnes and value, per year?

Table 3 and 4 show landings by UK vessels by country in tonnes and value per year over 2011-2015, with an annual average over this period.

Table 3: Volume of Landings of Fish by UK vessels, by country of landing, 2011-2015.⁵⁴

Country	Tonnage (thousand tonnes)					2011-2015 Annual Average
	2011	2012	2013	2014	2015	
England	98	105	101	101	101	101
Wales	12	14	13	10	9	12
Scotland	261	247	262	315	277	272
Northern Ireland	22	21	19	18	19	20
Other UK ⁵⁵	7	8	9	7	9	8
Abroad	196	234	221	305	292	250
Total	596	628	627	756	707	663

Table 4: Value Landings of Fish by UK vessels in tonnes, by country of landing, 2011-2015.⁵⁶

All value of landings data is in nominal terms (i.e. has not been adjusted for inflation).

Country	Value (£m)					Annual Average
	2011	2012	2013	2014	2015	
England	167	165	158	167	161	163
Wales	16	20	17	13	13	16
Scotland	406	348	344	403	345	369
Northern Ireland	27	29	23	25	26	26
Other UK	5	6	8	8	10	7
Abroad	211	220	192	246	220	218
Total	832	788	741	861	775	800

⁵⁴ Source for 2011-2014: MMO Annual Fisheries Statistics 2014, Tables 3.2 and 3.2a-d, available here: <https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2014>. Data for 2015 is provisional, and is sourced from MMO Monthly Fisheries Statistics for December 2015.

⁵⁵ Channel Islands and the Isle of Man.

⁵⁶ Source for 2011-2014: MMO Annual Fisheries Statistics 2014, Tables 3.2 and 3.2a-d, available here: <https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2014>. Data for 2015 is provisional, and is sourced from MMO Monthly Fisheries Statistics for December 2015.

a. Which species are landed in other European countries and where?

Table 5 shows landings by UK vessels abroad by species in 2015. It shows that mackerel accounted for 52% of the volume and 44% of the value of landing by UK vessels abroad.

Table 5: Landings by UK vessels abroad by species, 2015.⁵⁷

	Tonnage	Value (£m)
Cod	12775	19
Monks or Anglers	3898	12
Plaice	15331	19
Other Demersal	18254	34
Herring	55181	20
Mackerel	153155	97
Other Pelagic	25047	8
Shellfish	8230	11
Total	291871	220

Table 6 shows landings by UK vessels abroad in 2015 broken down by country of landing. This shows that Norway and the Netherlands are the main foreign countries into which UK vessels land fish.

Table 6: Landings by UK vessels abroad by country of landing, 2015.⁵⁸

	Tonnes	Value (£m)
Belgium	9	<£0.5m
Denmark	38,578	£19m
Falkland Islands	2,021	£1m
France	3,350	£7m
Germany	4,295	£6m
Iceland	130	<£0.5m
Ireland	30,633	£28m
Mauritius	761	£1m
Netherlands	72,114	£54m
Norway	133,733	£90m
Spain	6,247	£12m
Total Non UK	291,871	£220m

b. Are there tariffs on non-EU vessels landing catches in EU ports?

⁵⁷ Source: MMO Monthly Fisheries Statistics for December 2015. This data is provisional.

⁵⁸ Source: MMO Monthly Fisheries Statistics for December 2015. This data is provisional.

Catches landed into EU ports by non-EU vessels are generally treated the same as any other imports into the EU from non-EU countries. However, the EU may manage a bilateral agreement by which non-EU countries can land fish into the EU ports tariff free – for example, the EEA agreement specifies that “The Contracting Parties (to the EEA agreement) shall take the necessary measures to ensure that all fishing vessels flying the flag of other Contracting Parties enjoy access equal to that of their own vessels to ports and first-stage marketing installations together with all associated equipment and technical installations.”⁵⁹

4. Which species fished by UK fishermen are mobile, how mobile are they and what are their mobility patterns?

Commercial fish and shellfish species could be categorised into the following broad categories:

Sessile species: Those species in which the adult stage is fixed to the substratum. This would include selected commercial shellfish such as mussels. Whilst sessile species will reside largely within, for example, national waters, such species can have ‘planktonic’ egg and larval stages to facilitate dispersal. Hence, there can be connectivity between stocks in national waters and neighbouring areas.

Sedentary species: Those species in which the adult stage is not fixed to the substratum, but for which movements may be very limited. This would include various bivalve shellfish, such as inshore cockles and clams and more widely distributed species such as scallops. Norway lobster (*Nephrops*), whilst a mobile species, is often restricted to defined habitats where it lives in burrows, and so may also be considered as a ‘sedentary’ species. Whilst the fishable portion of these stocks remain fairly confined such species can have ‘planktonic’ egg and larval stages to facilitate dispersal. Hence, there can be connectivity between stocks in national waters and neighbouring areas.

Mobile species: Shellfish species in which the adults are capable of free movement and may undergo small-scale movements and migrations, including edible crab, lobster, cephalopods. The larvae of these species are generally also widely redistributed.

Also most demersal fish (including, plaice, sole, cod, haddock, skates), which have adults and juveniles that distribute freely, are considered mobile. Generally, such species have a number of discrete ‘stocks’ within their geographical range (although there can be a small degree of exchange between stocks). These stocks will often usually equate with the management units used in European fisheries management, and these are typically over a scale of ICES Division(s) or Subarea. For example the stock of cod (*Gadus morhua*) in ICES Subarea 4, Division 7.d and Subdivision 3.a.20 (North Sea, eastern English Channel, Skagerrak).

Consequently, mobile species will typically form stock units that straddle national waters, they may move in and out of national waters; and they may have more spatially-defined ‘ecologically important habitats’ (e.g. spawning, nursery, feeding or overwintering grounds) within their stock range.

⁵⁹ <http://www.efta.int/sites/default/files/documents/legal-texts/eea/the-eea-agreement/Protocols%20to%20the%20Agreement/protocol9.pdf>

(iv) Highly mobile and migratory: Those species in which the adults exhibit large-scale migrations over large distances. Many UK pelagic commercial fishery resources are 'highly mobile and migratory', including herring, mackerel, spurdog and tope. Generally, such species have a limited number of 'stocks' in European Atlantic waters (although there can be a small degree of exchange with adjacent stocks). These stocks will also often equate with the management units used in European fisheries management, and these are typically over a scale of multiple ICES Subareas.

Consequently, highly mobile and migratory species have stock units that straddle national and sometimes international waters. Such species display highly migratory behaviour (often on an annual cycle) and so may be more reliant on certain regions, including national waters, during selected months. They may also have more spatially-defined 'ecologically important habitats' (e.g. spawning, nursery, feeding or overwintering grounds) within their stock range.

5. Which stocks fished by UK fishermen are shared with other countries?

Fishing stocks can be sub-divided into stocks which are managed by fishing quotas and those which are not. Of stocks which are managed by quotas which the UK has an interest in, all of these are shared with at least one other EU country, except for the Clyde herring stock. Information on quota shares and uptake between the UK and other EU countries is available in Table 3.12 of the UK's annual fisheries statistics here: <https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2014>

For non-quota stocks:

The majority of stock shares are with our immediate neighbours (principally France and Ireland).

We have identified 16 species / ICES Division combinations which can be considered to be shared. These are; King scallop, Queen Scallop, Brown Crab, European Lobster, Spiny Lobster, Spider Crab, Cuttlefish, Squids, John Dory, Red Mullet, Pilchard, Anchovy, Sand Sole, Spotted dogfish, Smoothhound and Tope

Some species/Division combinations have multiple stock units where the level of sharing will be quite variable

However, biologically reliable stock definitions for many non-quota species are generally lacking.

Around 21% of UK fishery revenue comes from non-quota species in which some stock sharing occurs.

This is taken at the whole UK level and does not discount for sub-areas/units where the UK takes 100% of the landings. It therefore represents an upper ceiling.

Trade

6. What proportion of catches is exported to EU and non-EU countries respectively, in tonnes and value?

As shown in the answer to Q3, in 2014 UK vessels landed 451,000 tonnes of fish into UK ports. In addition, UK aquaculture producers produced 215,000 tonnes of fish⁶⁰, resulting in total UK production of fish of 665,000 tonnes.

66% (by volume) of the UK's fish exports in 2014 went to the EU. The UK exported 328,000 tonnes of fish to the EU in 2014⁶¹, meaning that the volume of fish exported to the EU is equal to 49% of the volume of domestic production.

The UK exported 171,000 tonnes of fish to non-EU countries in 2014, meaning that the volume of fish exported to the EU is equal to 26% of the volume of domestic production. This figure should be interpreted carefully, due to several factors related to the complex nature of international fisheries supply chains:

Fisheries products will often be subject to processing prior to being exported; for example, they may be filleted (which reduces the weight of the product but adds value to it) or combined with other products such as breadcrumbs (which would add weight and value to the product). This means it is difficult to provide any estimates on a value basis, as much of what is exported has had value added to it by processing.

In addition, fisheries products are often imported for processing before being re-exported, or exported for processing before being re-imported for the domestic market.

These figures should therefore be regarded as indicative only and not a true measure of the proportion of fish caught which is exported to EU and non-EU countries.

a. Which species are exported to which EU and non-EU countries respectively, in tonnes and value?

Table 7 shows exports to EU and non-EU countries by species. These figures show that salmon is the most important species for exports to both the EU and non-EU countries, with significant exports of shellfish and mackerel.

Table 7: Exports of fish to the EU and non-EU countries by species, 2014.⁶² Figures may not sum due to rounding.

Species	Volume (tonnes)			Value £m		
	EU	Non-EU	Total	EU	Non-EU	Total
Cod	14268	1210	15478	£49m	£4m	£52m
Herring	45335	18127	63462	£27m	£14m	£41m
Mackerel	66728	53615	120343	£67m	£62m	£128m
Saithe	4744	3	4747	£9m	<£0.5m	£9m
Salmon	54564	70282	124846	£268m	£358m	£626m

⁶⁰ Source: EUROSTAT – see here:

<http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tag00075&plugin=1>

⁶¹ Source for exports to the EU and non-EU countries: MMO Annual Fisheries Statistics, Table 4.3a. All value figures rounded to nearest tonne / £m.

⁶² Source: MMO Annual Fisheries Statistics, Table 4.3a. All figures rounded to nearest tonne / £m.

Sardines	3079	866	3945	£4m	£3m	£7m
Other Finfish	67529	17021	84549	£190m	£48m	£238m
Crabs	13450	2075	15525	£47m	£10m	£57m
Mussels	4773	38	4811	£5m	<£0.5m	£5m
Shrimps and Prawns	13095	372	13468	£73m	£2m	£75m
Other Shellfish	40103	7871	47974	£271m	£51m	£322m
Total	327668	171479	499148	£1,008m	£552m	£1560m

b. Out of the top 15 non-EU countries to which the UK exports fish, which are subject to trade agreements with the EU? Under these agreements, are fisheries subject to different terms and tariffs than WTO terms and tariffs?

The top 15 non-EU countries to which the UK exports fish (sorted by value of exports in 2014) are⁶³:

- USA – exports of £243m in 2014
- China (excluding Hong Kong) - £103m
- Nigeria - £38m
- South Korea - £24m
- Russia - £17m⁶⁴
- Hong Kong - £17m
- United Arab Emirates - £12m
- Canada - £11m
- Switzerland - £10m
- Vietnam - £10m
- Taiwan - £10m
- Japan - £8m
- Ukraine - £7m
- Australia - £6m
- Norway - £5m

Of these countries, the EU has a free trade agreement in place with South Korea, Switzerland, Ukraine and Norway. Of these countries, exports of fish from the EU are subject to preferential terms for imports into South Korea and Ukraine, while Norway offers tariff-free access for imports of fisheries products from all WTO members.

⁶³ Source: HMRC Trade Database. All figures rounded to nearest £m.

⁶⁴ Russia implemented a ban on imports of food from EU countries in August 2014, covering most fisheries items. As a result, provisional data indicates that exports of fish to Russia in 2015 were substantially reduced on 2014.

Switzerland applies the same tariffs for imports of fisheries products from all WTO and EU members, though for many products this is also tariff-free.⁶⁵

The EU has agreed free trade deals with Canada and Nigeria (as part of the West Africa Economic Partnership Agreement), but these are yet to be implemented.

7. What proportion of fish is imported from the EU and non-EU countries respectively, in tonnes and value?

As described above in the answer to Q6, in 2014 domestic production (both through wild capture and aquaculture) of fish amounted to 664,000 tonnes, with exports to EU and non-EU countries totalling 499,000 tonnes in 2014. This means that there is 166,000 tonnes of domestic supply available for domestic use. In 2014 the UK imported 721,000 tonnes of fish⁶⁶, meaning that total supply available for domestic use was 887,000 tonnes.

32% (by volume) of the UK's imports of fish come from EU countries. The UK imported 232,000 tonnes of fish from the EU in 2014, meaning that the volume of fish exported to the EU is equal to 26% of the volume of total supply of fish for domestic use.

The UK imported 489,000 tonnes of fish from non-EU countries in 2014, meaning that the volume of fish imported from non-EU countries is equal to 68% of the volume of total supply of fish for domestic use. This figure should be interpreted carefully, due to several factors related to the complex nature of international fisheries supply chains:

- Fisheries products will often be subject to processing prior to being exported; for example, they may be filleted (which reduces the weight of the product but adds value to it) or combined with other products such as breadcrumbs (which would add weight and value to the product). This means it is difficult to provide any estimates on a value basis, as much of what is exported has had value added to it by processing. This has knock-on effects on the estimates of the amount of domestically produced fish available for domestic use which are used above.
- In addition, fisheries products are often imported for processing before being re-exported, or exported for processing before being re-imported for the domestic market.
- As a result, these figures should be regarded as indicative only and not a true measure of the proportion of fish used in the UK which is imported.

a. Which species are imported from which EU and non-EU countries respectively, in tonnes and value?

Table 8 shows imports of fish into the UK in 2014, broken down between imports from EU and non-EU countries. This shows that imports are dominated by non-EU countries (notably Iceland, Norway, the Faroe Islands and China), with significant imports of cod, tuna, salmon, other finfish species and shrimps and prawns.

⁶⁵ Information on tariffs has been sourced from the European Commission – see here: http://madb.europa.eu/madb/datasetPreviewFormATpubli.htm?datacat_id=AT&from=publi

⁶⁶ Source for imports from the EU and non-EU countries: MMO Annual Fisheries Statistics, Table 4.3a. All value figures rounded to nearest tonne / £m.

Table 8: Imports of fish from the EU and non-EU countries by species, 2014. Figures may not sum due to rounding.⁶⁷

Species	Volume (tonnes)			Value £m		
	EU	Non-EU	Total	EU	Non-EU	Total
Cod	23602	92800	116401	£82m	£328m	£410m
Haddock	10617	25264	35882	£24m	£87m	£111m
Mackerel	24302	7721	32022	£46m	£7m	£53m
Salmon	33418	44894	78311	£169m	£224m	£393m
Sardines	4148	8758	12906	£15m	£19m	£34m
Tuna	12253	79522	91775	£51m	£236m	£287m
Other Finfish	95961	138591	234552	£303m	£385m	£688m
Mussels	2695	3287	5982	£7m	£9m	£15m
Shrimps and Prawns	13797	68534	82331	£94m	£500m	£594m
Other Shellfish	10789	19653	30442	£57m	£94m	£151m
Total	231582	489022	720605	£848m	£1,889m	£2,736m

On 13 May 2016, Elizabeth Truss MP, then Secretary of State for Environment, Food and Rural Affairs, published an opinion on the NFFO website which noted that “paying WTO tariffs on fish and shellfish exports while we hammer out a deal with the EU could lose our fishing industry up to £100m per year”. This analysis was conducted by DEFRA. Under WTO rules, what tariffs would be imposed on UK fish exports to the top 15 EU and the top 15 non-EU countries, respectively?

The top 15 EU countries which the UK exports to are below (sorted by value of exports in 2014)⁶⁸:

- France – exports worth £366m in 2014
- Spain - £142m
- Republic of Ireland – £138m
- Italy - £91m
- Netherlands - £74m
- Germany - £64m
- Poland - £32m
- Belgium - £26m
- Denmark - £25m
- Portugal - £8m
- Sweden - £7m
- Latvia - £5m

⁶⁷ Source: MMO Annual Fisheries Statistics, Table 4.3a. All figures rounded to nearest tonne / £m.

⁶⁸ Source: HMRC Trade Database. All figures rounded to nearest £m.

- Bulgaria - £5m
- Greece - £5m
- Cyprus - £5m

Under the EU Customs Union, EU countries apply a Common External Tariff to imports – i.e. EU countries apply the same tariff rate as each other on imports from outside the Customs Union.

The tariffs the EU would implement on UK fish exports would depend on whether and what kind of bilateral trade deal the UK agrees with the EU after leaving the EU. A trade deal could see preferential or tariff-free trade terms on exports of fish to EU markets, while still complying with WTO rules. Both Norway and Iceland have concluded trade deals with the EU on fisheries, with Iceland gaining tariff free access to the EU market for its exports of cod.

If the UK did not agree a trade deal with the EU, then its exports to the EU would be subject to Most Favoured Nation (MFN) tariff rates. However, in such a scenario fish imports from the EU would also face tariffs (at a level to be agreed between the UK and WTO) so such an arrangement is unlikely to be attractive to the EU.

There are over 400 tariff lines for fish and shellfish products, each covering different species at different levels of preparation. The full list of the EU's MFN tariffs is available here: http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=OJ:L:2015:285:FULL&from=EN%20-%20ntr10-L_2015285EN.01000301-E0010

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

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

The top 15 non-EU countries which the UK exports to are described in the answer to Q6b. Once outside of the EU customs union, the UK will have the opportunity to negotiate a free trade agreement with any of these countries under WTO rules, which may mean preferential or free access to their markets for the UK's exports of fisheries products.

Where the UK does not agree a bilateral free trade agreement with individual countries, then this will mean the UK's exports of seafood are subject to that individual country's Most

Favoured Nation tariff rates. As described in the answer to Q6b, this will only change the tariffs faced by the UK's fisheries exports for exports to Switzerland, South Korea and Ukraine, as the only countries which the EU has a free trade agreement with which do not allow free access for imports of fish from all WTO countries.

The MFN tariffs charged by these non-EU countries on seafood for WTO nations are summarised below:⁶⁹

- **USA:** the bulk of the UK's exports to the USA are unprocessed salmon, accounting for £228m of exports out of a total of £243m in 2014, with large exports of other salmonids (e.g. trout) worth £9m in 2014. The USA imposes no tariffs on unprocessed salmon and salmonids (as for most other unprocessed fisheries products). The USA does impose higher tariffs (20-30%) on highly processed finfish products.
- **China (not including Hong Kong and Taiwan):** as with the USA, the majority of UK fish exports to China are unprocessed salmon (£64m out of a total of £103m in 2014). China also imports moderate quantities of mackerel and crustaceans from the UK. China imposes tariffs of 10% on fresh salmon, and 10-12% on imports of other fresh and frozen flat fish species.
- **Nigeria:** The majority of UK exports to Nigeria are frozen mackerel (£22m out of £38m in 2014) and herring (£8m). These exports face tariffs at 20%.
- **South Korea:** The UK's fisheries exports to South Korea are dominated by molluscs, accounting for £22m out of total exports of £24m. South Korea's MFN tariff rate for these products is 20%. Exports from the EU of these products are free of tariffs due to the EU's trade agreement with South Korea.
- **Russia :** Prior to Russia's ban on exports of food products from the EU, the UK's exports to Russia were dominated by frozen mackerel, accounting for £15m of exports out of a total of £17m in 2014. Russia charges a tariff of 3% or €0.02 (£0.017) per kilogram on imports of frozen mackerel, whichever is the greater.
- **United Arab Emirates:** The UK has significant exports of fresh whole Atlantic salmon to the UAE, which incur no tariffs. The UAE imposes a flat tariff of 5% on most fisheries products, with exception of whole fresh finfish and unprocessed crustaceans.
- **Canada:** The UK has significant exports of fresh whole salmon to Canada, worth £8m in 2014. Canada imposes no tariffs on unprocessed finfish products.
- **Switzerland:** Exports to Switzerland from the UK are mostly salmon, accounting for £6m of exports out of a total of £10m in 2014, with significant exports of shrimps and tilapia (£1m each). Imports of most species (including salmon and shrimps) into Switzerland for WTO countries are tariff-free, but imports of tilapia are charged at 4 Swiss Francs (£3.11) per 100 kilograms.
- **Vietnam:** Exports from the UK to Vietnam mostly consist of spiny lobster (exports of £4m in 2014), salmon (£2m) and molluscs (£2m). Vietnam offers

⁶⁹ All trade data is from MMO Annual Fisheries Statistics 2014, Table 4.3a and HMRC trade database. All tariff information is sourced from;

<http://madb.europa.eu/madb/atDutyOverviewPubli.htm?countries=RU&hscod=0303> . All tariffs are on a percentage of value basis unless otherwise stated. Where unit exchange rates have been converted into sterling, this is based on exchange rates as of 27th August 2016.

tariff-free access to WTO nations for some fish products, but tariffs on spiny lobster, salmon and molluscs are all around 10-15%.

- **Taiwan:** UK exports to Taiwan are mostly made up of whole fresh salmon (£7m in 2014) and frozen mackerel (£1m). Taiwan imposes high tariffs on imports of finfish, including 10% for salmon and whichever is the greater of 25% and 7.3 New Taiwan Dollars (£0.18) per kg on frozen mackerel.
- **Japan:** The UK mainly exports whole fresh salmon and frozen mackerel to Japan. Japan imposes tariffs on imports of all fisheries products, including tariffs of 3.5% on imports of fresh salmon and frozen mackerel.
- **Ukraine:** Ukrainian imports of fish from the UK are mostly frozen mackerel (exports of £4m in 2014) and frozen salmon (£1m). Ukraine imposes no tariffs on imports of these products from WTO countries, but does charge tariffs on other fisheries products (which are reduced for EU exports due to the EU's trade agreement with Ukraine).
- **Australia:** Australia imposes no tariffs on imports of fish, except for processed tuna. The UK mostly exports processed non-tuna fish to Australia (£5m in 2014 out of total fisheries exports of £6m).
- **Hong Kong, Norway:** Hong Kong and Norway impose no tariffs on imports of fisheries products from WTO countries.

9. How many, if any, bilateral agreements does the UK have with EU member states and other European countries?

As part of the EU customs union, the UK has no bilateral trade agreements with either EU or non-EU countries.

5 September 2016

Fergus Ewing MSP — Written Evidence (FBR0011)

As you will be aware, Scotland voted overwhelmingly to stay in the EU on 23rd June and the Scottish Government firmly believes that EU membership delivers many social, economic and cultural benefits for individuals, business and communities across Scotland. Our priority is to protect Scotland's interests and we are therefore exploring all options to protect Scotland's place in Europe. That includes Scottish Government officials working closely with the UK government and the other devolved administrations to develop detailed mechanisms for triggering article 50 to ensure that this is a meaningful process that reflects and protects Scotland's interests - including through outcomes that might differ from the position in the rest of the UK. However, after eight weeks we still do not know what the UK Government means by Brexit. Given the importance we attach to securing our continuing relationships with Europe, it is not possible nor appropriate at this time, to offer answers to your questions given the uncertainty and lack of clarity which remains.

I will, however, set out some key information about Scottish fisheries to help demonstrate to you the importance of fisheries to Scotland, and the urgent need for greater clarity on what the UK Government proposes to do following the vote to leave the EU.

Fisheries is an important part of Scotland's culture and economy and is particularly important in supporting vulnerable rural economies. Fisheries and fish processing combined contributed £572 million in GVA to the Scottish Economy in 2013.

Scotland accounts for 81% by weight of the total of UK landings of key stocks and 85% of the value.⁷⁰ Overall, Scotland catches around 38% of the EU's total allowable catch making it one of the most important fishing nations in Europe.

Scottish waters make up 60% of the UK's total European Waters, and in fact Scotland's seas are the 4th largest of core European waters.⁷¹ Fisheries management is fully devolved under the Scotland Act (1998) and Scotland controls the 'Scottish Zone, which is the Scottish part of British Fishery Limits (which are concurrent with our EEZ).⁷² This means the Scottish Government and the Scottish Parliament have devolved responsibilities and powers in respect of the regulation of sea fishing: (a) by all fishing boats within the Scottish zone, and (b) by all Scottish fishing boats, wherever those boats are.

Given the responsibilities on the Scottish Government, we have our own monitoring and enforcement capability. Our officers and vessels work closely with European and third party countries (in particular Norway) to police activity in our waters. We also have world class fisheries science support from the Marine Scotland laboratory in Aberdeen, which represents Scotland, and often the UK at international meetings as well as making major contributions to scientific surveys and the annual advice provided by ICES.

We also have considerable experience in international negotiations as part of the UK delegation. The agreement between the EU and Norway and the Coastal States' agreements on pelagic stocks (in particular mackerel and blue whiting) are the most important for Scotland as they cover the joint management of our key stocks. Scotland holds

⁷⁰ Key stocks are the most valuable quota stocks of the three species types: North Sea and W of Scotland cod, haddock, monkfish, nephrops, herring and mackerel (SOURCE)

⁷¹ This definition of EU European waters includes all core European waters, including the Mediterranean, the Baltic and the Black Seas, as well as the Atlantic. However, it excludes the outermost regions as well as the non-EU jurisdictions of the Isle of Man and the Channel Islands.

⁷² As set out in section 126(1) of the Scotland Act 1998 – as the sea within British fishery limits which is adjacent to Scotland. And the Scottish Adjacent Waters Boundary Order 1999 (SI 1999/1126), article 4 and Schedule 2 of which set out the boundaries of the Scottish zone.

approximately 18% of the global mackerel TAC and 67% of the UK haddock/cod in the North Sea (subject to the agreement with Norway). We will rightly demand and expect that we have the lead negotiating role for issues in which Scotland has the majority interest.

Exports to the EU are also vitally important for the Scottish food and drink industry. The value of Scottish fish and seafood exports to the EU in 2015 was £438 million. This accounted for 62% of the total value of our food exports to the European Union and is the second highest food and drink export after whisky. Scotland is also the third largest producer of salmon worldwide and Europe is our biggest market at around 40%. These figures highlight the importance of the single market and a trade free from regulatory barriers to our fishing and food sectors.

A critical point to note is that whatever arrangements apply to Scotland in the future, we will continue to be responsible and sustainable fisheries managers. We have led the way in trialling discard free fisheries in Europe with our catch quota scheme, and are committed to continuing to work to eliminate discards. As an internationally responsible country we will comply with the obligations on fisheries under the UN Convention on the Law of the Sea, as well as those deriving from other conventions such as the Convention on Biological Diversity and OSPAR. This means we will continue to take a science based sustainable approach to maximise the potential of the fishing industry as well as the wider marine environment and the communities it supports.

As you can clearly see, fisheries is a critical issue for Scotland and the Scottish Government which reinforces our view that Article 50 should not be triggered until there is 'a UK approach and objectives for negotiations'.

We welcome the commitment the Prime Minister has given in this regard, but believe the importance of fisheries also demonstrates why the Scottish Government must be involved directly in shaping the UK position as well as with any discussions with other countries in order to reflect and protect Scotland's interests. We have yet to have confirmation from the UK Government that this will indeed be the case, that we will be treated as an equal partner and assume the lead negotiating role where we have the majority interest.

7 September 2016

John Farnell—Written Evidence (FBR0005)

Which are the most urgent priorities for the UK's negotiations with the EU on a future relationship with the EU regarding fisheries and why?

What should the UK aim to achieve from this negotiation?

Above all the UK should be concerned to achieve the long-term sustainability of its fisheries, the most important of which are shared with neighbouring coastal states. This will call for cooperation on fisheries management with the European Union, Norway and the Faroe Islands. Radical change of the system and guiding principles on which joint management within the EU or between the EU and other coastal states like Norway is currently based may seem an attractive prospect to some UK fishermen, but it is likely to put sound management of key UK fisheries at risk in the longer term, as well as access to the EU market for UK fisheries products. Conservation of fish stocks and longer-term economic benefits for the UK fishing industry should take precedence over putative short-term gains.

Is it in the UKs interest to restrict access to UK waters for foreign vessels?

On the whole it is not, although restrictions on fishing by foreign vessels may be possible for some coastal fisheries of limited interest to other EU Member States, subject to compensation.

What impact could that have on reciprocal access rights and UK fishermen?

The most important stocks for the UK in economic terms (such as cod and haddock stocks shared with Norway, or flatfish and Nephrops stocks in the North Sea and Irish Sea) are joint stocks, and both the EU and Norway will exert pressure on the UK to management arrangements much as before, both in terms of the methodology for fixing total catch levels and quota shares. In the absence of agreement on a TAC they would, for example, be in a position to increase catches in their own EEZ, which could lead to increased pressure on the stock. Any reduction of fisheries access for their fishermen in the UK EEZ would also lead to comparable reductions for UK fishermen in the EU and Norwegian fisheries zones. In the event that comparable restrictions of UK fishing possibilities were not available (for example, where UK fishing of the joint stock is conducted mainly in UK waters) the EU would be likely to restrict UK market access for the fish species concerned in retaliation.

For joint stocks shared with Norway (in the northern part of the North Sea) it might be possible to agree a more conservationist policy than prevails under current EU-Norway arrangements. Norway's interest in long-term sustainable fishing is fundamental. But Norway also has fishing interests in the waters of other EU Member States than the UK (such as Denmark and Sweden) that may lead it to look for arrangements with the EU involving more EU fishing of joint UK-Norway stocks in Norwegian waters than the UK alone might wish.

Which UK and non-UK Exclusive Economic Zones (EEZs) are most important to the UK fishing industry and which should the UK prioritise continued access to?

The UK fishing industry may find it difficult to speak with one voice about priorities for fishing.

One group of fishermen, with little interest in fishing in another EEZ, will prioritise the exclusion of foreign fishermen from their fishing grounds, while fishermen interested in fishing in Norwegian or other EU waters will not wish to see Norwegian, French or Dutch vessels, say, excluded from other UK fisheries that interest those countries for fear of

retaliation affecting their own activity. Similarly, Scottish fishermen who account for nearly two-thirds of UK fish landings and whose production is exported to a significant extent to the EU market may take a different view from other UK fishermen on the link between access to foreign vessels to fish in the UK and trade possibilities than other UK fishermen.

Just as important, however, is the point that the UK will in any case not be free to act on any prioritisation of its fisheries interests between different Member States of the EU. The rules of the CFP will not allow any Member State that might be identified as a priority partner by the UK to negotiate with the UK on fisheries policy matters. The Commission will negotiate for the entire EU, taking the interests of all Member States into account, whether in respect of the French waters in the English Channel, Dutch waters in the North Sea, or Irish waters in the Irish Sea or off North West Scotland. Within the EU, those Member States with distant water fishing interests in UK waters but with little or no fishing to offer the UK in return (such as Spain and France) will be particularly vigilant in ensuring that the EU does not sell out their interests in future negotiations. The internal politics of the EU will, therefore, make it impossible for the UK to negotiate an agreement with the EU that would significantly change the fisheries access of some individual EU Member States but not others.

Should the UK seek to preserve access to free trade in fish?

Given the importance of the EU market for UK fisheries it is clearly in the UK interest to preserve as much free trade as possible with the EU.

What trade-offs would likely be necessary in order to preserve access to free trade in fish and seafood?

Free trade with the EU in fisheries products is unlikely to continue after Brexit. EU fisheries interests will push hard for more restrictive trade arrangements, at best similar to those offered to Norway and Iceland, once the UK is no longer a Member State. The more future UK fisheries policy deviates from the status quo in terms of fishing rights for EU vessels in UK waters, the more restrictive those future trade arrangements are likely to be.

What approach to achieving Maximum Sustainable Yield (MSY) and sustainable fisheries would be in the UK's best interest outside of the CFP?

Should the UK continue to co-ordinate Total Allowable Catches (TACs) and quotas with the EU and neighbouring countries?

As indicated in the response to Question I, the UK has a compelling interest in coordinating its fisheries policy with its neighbours. Long before the creation of the EU's Common Fisheries Policy it was a leading advocate of international cooperation in fisheries science and management, a founder member of both the International Council of the Exploration of the Sea (ICES) and the North East Atlantic Fisheries Council (NEAFC), as well as an important participant in the negotiations of the United Nations Law of the Sea Convention (UNLOSC). Deviation from international good practice in the management of joint fisheries stocks by the UK would be inconsistent with its past approach to fisheries policy and would be incomprehensible to its European neighbours.

To what extent should the UK preserve current TACs and quotas?

Not all UK fisheries are joint stocks, and it may be possible to review current TAC's unilaterally for such stocks after Brexit (the management of such stocks under the EU is already largely influenced by UK scientific advice). Other Member States, however, would

remain very sensitive to any unilateral reduction by the UK of their fishing quotas. Even in cases where their fishing possibilities were of limited economic interest they would be likely to look for compensation for any rights that were lost. Thus any future reductions of fishing quotas for non-UK vessels would have to be paid for, either by reduction of UK quotas in non-UK waters in other fisheries or by reduction of market access for UK fisheries products.

Could, or should, the UK seek to renegotiate the relative stability key?

Renegotiation of relative stability keys might be possible in respect of local stocks, as outlined above, but there will always be a price to pay.

Historical fishing performance has been the yardstick for the allocation of fishing rights in international fisheries conventions long before the development of EU allocation rules. In the case of the EU, agreement on relative stability of fishing rights was the result of long and difficult negotiations extending over several years. The repercussions of the UK putting these historic rights into doubt would be wide-ranging. The EU, for example, would be faced with the prospect of reallocating shares within EU fisheries to take account of any losses by Member States in the UK EEZ. The complications that would result would certainly create an unfavourable attitude towards concessions to the UK in the fisheries chapter of the Brexit negotiations. Given the political sensitivity of fisheries in a number of Member States, they might also worsen the political climate for the rest of the Brexit negotiations. To sum up, the UK will have to weigh up the costs and benefits of destabilising the status quo in fisheries policy in Europe very carefully.

What opportunities and constraints will affect the UK's ability to achieve its priorities and objectives in negotiations about a future EU-UK relationship regarding fisheries?

What obligations to co-operate on fisheries management exist under international law?

How will this affect the UK's ability to restrict access for foreign vessels to the UK?

To what extent will historical access rights affect the ability to restrict foreign vessels from accessing UK waters, or other countries' ability to restrict UK access to their waters?

Will the UK be able to restrict access for vessels that are UK based, though owned by an EU company before and after Brexit?

Earlier replies cover most of the points raised in Questions 5 and 6.

In relation to Question 6(c) while it might be legally possible to withdraw fishing licences for foreign-owned UK-flagged fishing vessel, it would be difficult to marry such a policy with the announced intention of the current UK government to make the UK one of the world's most open economies to foreign direct investment. If Brexit means anything, it means no discriminatory treatment of foreign investment.

What type of relationship with the EU and neighbouring countries would be preferable for securing effective regional management and co-operation?

As already indicated, a policy based on continuity of current practice in respect of both conservation policy and the economic management of fisheries is likely to be the only one

that will promote effective regional cooperation. The UK will also wish to ensure cooperation after Brexit on enforcement of fisheries regulations on both sides of a future border between the UK EEZ and that of the other coastal states.

With whom should the UK seek to establish bilateral relationships?

Norway, the Faroe Islands and the EU.

Individual Member States of the EU will not be legally entitled to enter into binding agreements with the UK on matters falling within the CFP. This would not exclude bilateral technical consultations with individual Member States relating to fisheries of common concern, such as France in relation to the English Channel or Ireland in respect of Irish Sea stocks, for example, but these would have to be of a non-binding nature. Such bilateral consultations between Member States already occur in relation to areas of their exclusive competence, such as fisheries control measures.

What type of relationship with the EU would best suit the UK's interests?

See reply to Question 1.

6 September 2016

Fishing for Leave — Written Evidence (FBR0002)

I. Which are the most urgent priorities for the UK's negotiations with the EU on future relationship with the EU regarding fisheries and why?

a. What should the UK aim to achieve from this negotiation?

The priority should be to see through a UK withdrawal and repeal the European Communities Act 1972.

Thereafter as the EU treaties will cease to apply upon the UKs withdrawal, an automatic restoration of national control over the UK EEZ out to 200 nautical miles/ the median line and all living marine resources therein as per the provisions of international law will occur. The United Kingdom will regain her exclusive rights, competence and control over all fisheries resources within the UK EEZ under the provisions of UNCLOS III (see Question 6).

Thereafter it will be within the rights and sole discretion of Her Majesty's Government to exercise management over these resource for the benefit of the nation and its fishing industry. The UK can implement a decent, fit for purpose management policy for the benefit of the whole UK industry, all involved within the industry and the coastal communities that depend upon it.

It should be ensured that the CFP disaster is not replicated into British law. The British Fishing Industry, and the British people's resource, was betrayed once before in 1972 when sacrificed to join the then EEC. The electorate are aware of that situation now, and a repeat performance this time will not be tolerated.

The UK EEZ includes some of the most productive and prime aquatic real estate in the world with the majority of EU catches being taken from what should, and will be, UK waters. A large proportion of the EU fisheries resources are found inside our EEZ. Tragically, due to our membership of the EU, for the past 40 years these resources, and control over them, have been ceded to the EU. This was enshrined in the EU treaties and the regulations derived from them – through a series of regulations this created the EU Common Fisheries Policy. Resultantly, this allowed UK waters and resources to be exploited by every EU member state under the principle of equal access to a common resource (see Question 5). With every succeeding treaty and regulation, the noose of the CFP has tightened around the UK industry.

I.5 The deprivation of our own resources has resulted in around, on average:

i) 70% of fisheries resources in the waters around the UK being held by other EU member states, being of the value in the region of around £1-1.5bn.

ii) 60% of the UK fleet has been scrapped as a result of this lack of resources and resultantly towns synonymous with fishing have been destroyed. There are no major fishing ports left between Plymouth and Peterhead such has been the UK industries demise under EU membership and the Common Fisheries Policy (CFP).

2. Is it in the UKs interest to restrict access to UK waters for foreign vessels?

a. What impact could that have on reciprocal access rights and UK fishermen?

b. Which UK and non-UK Exclusive Economic Zones (EEZs) are most important to the UK fishing industry and which should the UK prioritise continued access to?

The United Kingdom has the richest fishing grounds in Europe with the majority of EU catches being taken in our waters. With the UK having the lion’s share of resources, reciprocal access, forced unrestricted upon us through the founding tenant of the CFP – Equal access to a common resource, is a one-way street massively to our detriment.

Should the UK and EU mutually excluded their respective fleets although, in the case of a few fisheries and areas, there would be some loss to a small number of the UK fleet, it would mean an adjustment in fishing patterns more than compensated for with the huge volume of fisheries resources repatriated to the UK.

(The tables below show that the majority of the UK effort and catches across all species are caught in the UK EEZ.)

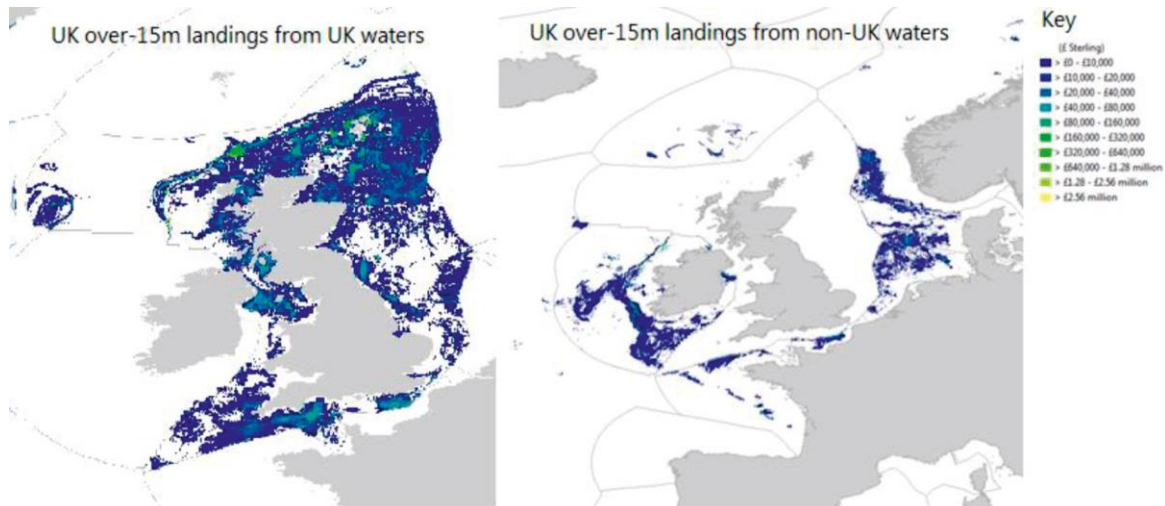


Table I Value of UK landings from over-15m vessels, by area of catch (2014)

Area	Value (£ million)	%
UK waters	426.7	79
EU waters (excl. UK)	89.5	17
Other waters	23.8	4
Total	540.0	100

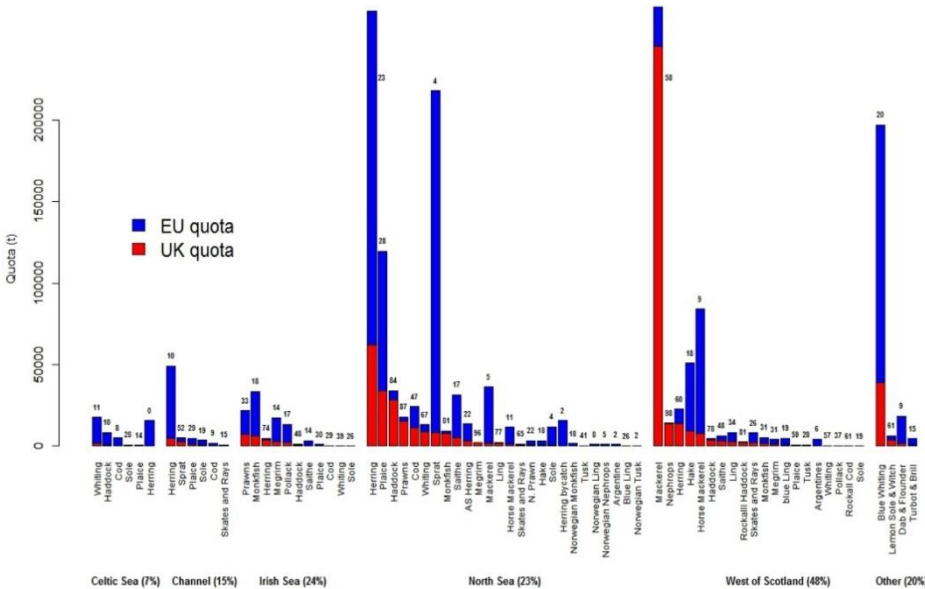
Due to this and with the EU EEZ representing little overall benefit to the UK it would be in the best interests of the UK to close access to our waters for the EU fleet with the loss of reciprocal access not fundamentally detrimental to our interest when weighed against what is gained to that lost.

Her Majesties government should only barter on a basis of equal exchange and only when absolutely necessary. (example - in regard to Scallop access in the EU sector of the English Channel). With so much to gain and little to lose reciprocal access SHOULD NOT become Equal Access in all but name.

It is also imperative that NO British fisheries resources are traded away spuriously either in fisheries or in the wider political context. The UK fishing industry was regarded as “expendable” during our accession before with cataclysmic consequences resulting in the decimation of the UK industry and communities – this MUST NOT happen again. In the terms of Brexit this would be a fundamental and dire sell out and not politically expedient to do so.

Fishing for Leave — Written Evidence (FBR0002)

a) During the referendum campaign DEFRA outlined that the UK caught “£100m outside UK waters”. However, in return we lose around a billion pounds worth of resources which are being caught around our shores by other EU member states fleets. (1) <http://theconversation.com/fact-check-is-80-of-uk-fish-given-away-to-the-rest-of-europe-39966>



On joining the then EEC the UK ceded control of fisheries to the EU. The EU, taking fisheries as an exclusive competence, subsumed all member states fisheries into a Common Fisheries Policy (CFP). Consequently what were previously UK fisheries resources became EU fisheries resources and through the subsequent Regulation 170/83 -articles 2&3 (2) quotas and relative stability were established and UK fisheries resources were divided out to all members under the policy of Equal Access to a common resource.

With Brexit these resources automatically become the UKs again. Upon withdrawal, as outlined in Question 5, all treaties and regulations cease to apply and therefore relative stability and quotas with it. Therefore, with the end of equal access, quotas and relative stability a huge proportion of the fisheries resource, which is rightfully Britain’s but has been subsumed by the EU through the terms of our membership, will return to the UK. It is then at the UKs discretion, under the provisions of UNCLOS 3 (see Question 6), as how to manage and allocate these resources.

This represents, on average across all stocks, somewhere in the region of a 250% increase in the resources available to the UK and the British fleet.

This colossal repatriation of our own resources will more than compensate for the comparatively smaller losses.

b) The first priority should be to secure our own EEZ and resources as this represents the vast majority of UK catches as detailed in the tables above. Aside from this the most important country currently is Norway. Looking to the future the other Nordic countries represent areas where significant mutually beneficial agreements could be drawn.

Norway, Great Britain, Faroe, Iceland and Greenland together effectively control the whole North East Atlantic, together these countries, working in conjunction with one another as independent sovereign nations, have the potential to construct sustainable, environmentally and economically fit for purpose fisheries regimes and policy. Each of these nations has a

fundamental direct stakeholder interest in well managed fisheries with fisheries being economically fundamental to most. Unlike in the EU, where 28 nations, many without coastlines, use fisheries as a pawn in a bigger political integration project.

3. Should the UK seek to preserve access to free trade in fish?

What trade-offs would likely be necessary in order to preserve access to free trade in fish and seafood?

Although it would be preferable to have tariff free access to the EU it should not be seen as critical when weighed against the benefit of the huge resources we reclaim. Tariff free access should not override the reclamation of our fisheries resources within our EEZ – the fundamentally obvious truism applies: ‘You Have to be able to Catch it before you can Sell it’

Therefore, there should be NO trade off in fisheries access or resources in return for tariff free access to the single market.

DEFRA noted that we “export fish and fish products worth £1bn” – However, if Britain reclaimed the 70% of TACs in British waters assigned by the EU under the CFP to other member states then this figure could more than double.

Currently we are allowing the raw product to be caught for free and landed to the continental market undermining our market share whilst losing the financial benefit of this fish to boats, processors, supporting industry, communities and the UK exchequer & economy. This is not the type of policy that made Britain a mighty nation.

If there is such a high level of exports then prime British seafood is obviously in demand and that demand from the consumers will remain whether we are signed up to a political project or not. It is often forgotten that trade is between buyer and seller not politicians. As UK seafood is renowned worldwide for its quality and standard it is hard to foresee demand subsiding. With EU vessels unable to exploit the UKs rich fisheries resources there will be increased demand for the fish the British fleet will be catching in place of the continental fleet taking it for ‘free’.

Even if tariffs were applied a few things must be remembered:

- 1) The current guidelines and parameters set by the World Trade Organisation (WTO) would not see punitive tariffs applied even if there were a desire to do so as ‘punishment’.
- 2) UK Seafood is a world renowned product – the UK pelagic fleet (herring & mackerel) among others in the shellfish sector (razor fish, scallops) show the global potential of UK fisheries exports around the world.
- 3) A multitude of other nations around the globe export to the EU without being in a political union and without being in the ‘free’ market.

We see nothing to suggest that even with the apocalyptic assumption that the door to the EU was entirely closed that UK seafood could not diversify into the hungry global markets as others already do or be channelled into domestic demand.

In summary. Norway, Faroe, Iceland and Greenland are the closest fishing nations to the EU, all are independent countries out with the EU yet export fisheries products to the EU far in excess of the UK without difficulty.

Trade would continue as the UK along with Norway and the other Nordic countries would control a vast proportion of the EU’s seafood supply.

With a large population of hungry mouths to feed it is difficult to imagine the EU cutting off its nose to spite its face.

4. What approach to achieving Maximum Sustainable Yield (MSY) and sustainable fisheries would be in the UK's best interest outside of the CFP?

- a. Should the UK continue to co-ordinate Total Allowable Catches (TACs) and quotas with the EU and neighbouring countries?
- b. To what extent should the UK preserve current TACs and quotas?
- c. Could, or should, the UK seek to renegotiate the relative stability key?

The Common Fisheries Policy (CFP) is universally recognised and derided as an abject failure even by the EU itself. As the Treaties, and therefore the CFP, cease to apply upon UK withdrawal, this represents a golden chance of a clean slate. The UK's best interests would be served with the implementation of our own fit for purpose management plan tailored to the unique demersal mixed fisheries around the UK with an end to quotas and a transitional move to days at sea taking account of current track records/fqa units.

It is CRITICAL that for either political convenience or a minority of industry interest that the CFP is not replicated into British law.

a) i) TAC's are set after agreements internationally through the NEAFC and ICES. They set a total allowable catch for each sea area. Thereafter it is open to each independent coastal state as to how to manage the proportion of the resource in its EEZ as under the provisions of UNCLOS III.

ii) Quotas and relative stability are a construct and mechanism devised under the CFP (Regulation 170/83 articles 2&3) to allocate the EU resources to each member state and to facilitate the overall primary objective of the CFP which was an EU fleet with equal access to a common resource. Upon UK withdrawal the treaties and therefore the CFP cease to apply and the UK fisheries resources will return to the UK in their entirety - there are no quotas or relative stability to negotiate as they cease to apply with the Treaties and CFP, thereafter the UK can implement a fit for purpose, workable policy that works in UK demersal mixed fisheries.

b) Quotas, conservationally and operationally, have failed to work disastrously in the highly mixed fishery around the UK coast - being the primary cause of mass discarding. As the noble Lords noted in a previous Discards Paper, discards caused by quotas result in increased fishing effort and stock mortality, as vessels have to catch more and land less. Fishermen are forced to discard what quotas do not allow them to keep. They also cause inaccurate catch reporting. A discard ban merely addresses the symptoms, not the cause.

Quotas fail to work as they try to manage on an individual species approach when vessels cannot help but catch a mix of fish. Quotas have resulted in a plethora of legislative sticky plasters to bash a square peg into a round hole.

A different approach to domestic management is needed that is applicable to the UK's demersal mixed fisheries – days at sea taking account of current track records/fqa allocations would be preferable – the policy must fit the environment not try to make the environment fit the policy.

Sustainable fisheries are critical to not only the well-being of the marine environment but also the industry and communities that depend upon them.

This is often forgotten and for too long fishermen have been portrayed as environmental pirates to suit various agendas. The UK fleet has made tremendous innovation, sacrifices and progress to rebuild the booming stocks we have now in spite of the CFP.

- i. Upon UK withdrawal a future British Fisheries Management Policy should force scientists and fishermen to work together in a framework of mutual dependence accounting for one another's expertise/knowledge to ensure accurate real time stock assessment and an end to mutual distrust – such a system operates in Norway to great success.
- ii. A British Fisheries management policy should rationalise the multitude of technical measures into a concise UK wide set of standards. Currently EU rules have a ridiculous multitude of technical measures for a multitude of areas.
- iii. A management system applicable in the highly mixed demersal fisheries around the UK should be implemented. Days at sea would be preferable taking account of current track records/fqas. Days at sea would automatically end discards, end the regulatory morass of the quota regime, would allow and incentivise accurate reporting in contrast to the misreporting under quotas.

Maximum Sustainable Yield (MSY) is a noble objective, and the UK is a signatory of the 2002 Johannesburg agreement. Every fishermen wants stocks that can be harvested ad-indefinitum at their maximum levels however the practicalities and realities of the marine environment must be accounted for. Regarding MSY policy aims should be reality based rather than objective based with the impossible, stringent targets the EU has made itself. It must be recognised that species in a marine ecosystem are interdependent and predate on one another. MSY looks at species individually however it is impossible to have maximum levels of every species.

The UK should look at the Icelandic/Faroese pyramid model. This shows that rather than treat each stock separately we should see the marine environment as a whole – therefore rather than remove individual blocks destabilising the pyramid(ecosystem) we should aim to take an even slice down the side of the pyramid across all species and sizes. Days at Sea allowing keep what you catch would facilitate this whereas quotas are forcing fishermen to target specific stocks and sizes and are resulting in excess effort as vessels have to catch more and land less whilst discarding what they cannot keep.

c) Speaking of relative stability fundamentally fails to recognise what relative stability is and understand the construct of the CFP and its primary equal access objectives. Relative stability is an EU construct that is no longer applicable upon withdrawal. The UK's EEZ and marine resource in their entirety return entirely to the UK under international law.

There will be nothing to negotiate – all the resources defined in UK waters currently held by other EU member states and allocated under an EU system will automatically return to the UK.

Suggesting or recognising Relative Stability or Quotas in anyway gives the EU system credence and runs the huge danger of the status quo continuing and would in effect be the UK running a CFP mark II in parallel to the EU. This would allow the continuation of Equal access and a division of UK resources among the remaining EU member states – this would be an abject (second) betrayal of the UK industry, a UK national resource and of Brexit and would be totally unacceptable.

5. What opportunities and constraints will affect the UK's ability to achieve its priorities and objectives in negotiations about a future EU-UK relationship regarding fisheries?

Again, as in question one the context of this question needs to be clarified as to whether it means pre or post UK withdrawal?

There is little to be pessimistic about regarding a UK withdrawal with the level of resources repatriated being immense.

Pre-Brexit – As the EU has slowly subsumed control over tracts of policy, layer upon layer it has come to resemble an onion. It has an initial core and then a plethora of rules and regulations taking their power and authority from the provisions of the previous all underpinned by the provisions of the Treaties. This began with the Treaty of Accession 1972 and the European Communities Act 1972. Article 100 of the Treaty of Accession made the UK party to the provisions of Article 2 of Regulation 2141/70 and gave the EU control over fisheries and provided for equal access.

Thereafter Regulation 170/83 created the CFP, relative stability and quotas. Subsequently on these founding tenants and principles a plethora of rules has been implemented.

As agreed and signed by all EU member states Article 3 of the Lisbon treaty says:

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2,

Therefore as the whole body of EU law will cease to apply the onion will unravel back to the start. Thereafter, under the provisions of the UK Fisheries Limits Act 1976, we will have our UK EEZ 200nm/ median line limit with control of all resources therein as per international law under the provisions of UNCLOS III.

Post-Brexit - With control over one of the foremost EEZ and fisheries resources in the world there is little benefit to be incurred in negotiations with the EU regarding fisheries and little to restrict the UK from doing so in a limited manner if so desired.

6. What obligations to co-operate on fisheries management exist under international law?

- a. How will this affect the UK's ability to restrict access for foreign vessels to the UK?
- b. To what extent will historical access rights affect the ability to restrict foreign vessels from accessing UK waters, or other countries' ability to restrict UK access to their waters?
- c. Will the UK be able to restrict access for vessels that are UK based, though owned by an EU company before and after Brexit?

International law regarding fisheries is laid down in UNCLOS III (United Nations Law of the Sea 3) of which both the UK (1996) and the EU (1997) are signatories. It came into force on 16th November 1994. UNCLOS III outlines the agreements on fisheries in Articles 62, 63 & 64.

Upon reading UNCLOS it becomes clear that when the UK withdraws, and the EU treaties are no longer binding (as agreed in Article 50 section 3 of the Lisbon treaty) that full control will revert to the UK. UNCLOS gives the UK the right under international law to formally

control its own EEZ and manage its own fisheries at its own discretion the same as Norway and Iceland and most other nations.

We feel it is important to quote UNCLOS III at length below as it is the fundamental underpinning of international fisheries agreements.

Article 61. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.

The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. Such measures shall also be designed to maintain or restore populations of harvested species at levels that can produce the economic factors, including the economic needs of coastal fishing communities.

Article 62.2 Utilization of the living resources

The coastal State shall determine its capacity to harvest the living resources of the EEZ. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements... give other States access to the surplus of the allowable catch.

Article 63.1 Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it.

Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate sub-regional or regional organizations, to agree upon measures necessary to coordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

http://www.un.org/depts/los/convention_agreements/texts/unclos/part5.htm

a) Reading the above it becomes clear that it will be at the UK's discretion as to who, how and when can fish in the UK EEZ. It will then be at the UK's discretion as to who, how and what can be fished in our waters and as outlined in Question 2 of this paper that should be UK vessels only. This is not unusual and the precedent has been and was set in the 1970s with the UK distant water fleet being removed from Norwegian and Icelandic waters.

b) As far as our research thus far can ascertain, there are no international recognitions of historical rights for EU or other vessels fishing in our waters. All rights for other EU member states to fish around the UK are derived from EU treaties and regulations. As these will fall so too will these vessels' right of access.

The UK could (indeed did) claim historical rights in Icelandic and Norwegian waters and history shows us this would be a non-starter.

It must be understood that the tragic CFP is not a natural state of affairs and that other independent sovereign nations manage their fisheries within their Exclusive Economic Zone Exclusively.

It is because the UK ceded control over our EEZ and fisheries to the EU that other EU member states can fish in our waters under Equal Access to a common resource (Regulation 2141/70 Article 2). They have been given the rights to do so through an EU quota system underpinned by Regulations 170/83 which created the CFP.

Therefore, as through the terms of the Lisbon Treaty Article 50 Section 3 the treaties will cease to apply so too will the Regulations and therefore the CFP and equal access and quota.

c) It is not clear if by UK based but EU owned it is meant:

- i. Vessels registered in the EU but operating from UK port(s).
- ii. Vessels registered in the UK but owned in the EU.

i) If a vessel is registered in the EU whether it has based its operation around and operating from the UK is irrelevant. With the Treaties, Regulations and the CFP no longer binding on our withdrawal and reverting back to the terms of UNCLOS III these vessels will no longer have the right or ability to enter, fish or be allocated resources in the UK EEZ.

ii) Vessels registered in the UK because of other provisions within the EU are in a different situation. So called 'Flag Ships' are vessels on the British registry however they are owned in the EU – this allows them to not only fish UK waters but do so against the UK share of EU quota.

The Merchant Shipping Act 1988 was an attempt by the UK government to stop this 'quota hopping' however it was found to be in breach of European Union law by the European Court of Justice (ECJ) after the Factortame case 1989.

As the United Kingdom will no longer be bound by the ECJ and EU treaties then the situation regarding 'Flag Ships' should revert back to the UK. With the UK having control through the merchant shipping acts the government will have the right and ability to remove EU owned but British registered fishing vessels.

If Flag ships cannot be removed, then the "economic link" specified in UK legislation for Fishing Vessel registration should be strengthened. This economic link is a provision that a British register a fishing vessel must land a proportion of its catches into the UK and must be crewed by a proportion of British nationals so the UK benefits economically. Currently this is neither strong enough or rigorously enforced. To regenerate the UK fishing industry, domestic and flag ship vessels should be made to land and sell/process all catches in the UK and that nearly all the crew must be British.

7. What type of relationship with the EU and neighbouring countries would be preferable for securing effective regional management and co-operation?

- a. With whom should the UK seek to establish bilateral relationships?
- b. What type of governance framework could the UK pursue?
- c. What approach to dispute resolution could be desirable?

As outlined previously, it will be at the UKs discretion and control to exercise whatever system we see fit in our EEZ under international law and the terms of UNCLOS III. With the superb resources we have within our EEZ it would be advisable to have only broad agreements necessary under UNCLOS III regarding conservation of shared and migratory stocks.

This can be done along with the other Coastal States at the North East Atlantic Fisheries Council (NEAFC). With the format of safeguarding ones own resources in place it will allow and encourage suitable sustainable management.

The UK should, regarding fisheries, aim and legislate to never become enmeshed in a disaster like the CFP ever again. The UK's fishing industry and dependent coastal communities have been destroyed or/and decimated once and cannot and should not be a second time

a) Preferably the UK could and should look to work closely with Norway and the other Nordic nations through the NEAFC. The EU EEZ has little to offer the UK however as outlined previously Norway, UK, Faroe, Iceland and Greenland will control the whole NE Atlantic. These nations could look to co-operate in a broad unbinding framework to manage and husband this colossal resource.

b) Any governance framework should not jeopardise our exclusive rights over the UK EEZ. The UK should agree broad targets regarding conservation with the other coastal states and thereafter manage our resources under a British Fisheries Management Plan. Thereafter any further specific agreements with the other Nordic nations can be agreed on an individual needs basis.

c) UNCLOS III and the NEAFC should be the medium which the UK should look to operate through. The ideological approach should be to safeguard our own resources for our own benefit rigorously. Iceland, Norway and Faroe appear to be able to avoid and resolve disputes in this manner and we see no reason why this cannot work for the UK away from the integrationist policies and objectives of the EU.

We must begin to think and act as an independent sovereign nation again and pursue what is best for the UK rather than be beholden and trapped in thinking inside an ideological framework of the CFP.

8. Which regional organisations, advisory bodies and scientific communities should the UK prioritise access to?

a. Once the UK leaves the EU, could it uphold its membership of such organisations?

The United Kingdom is already a signatory and party to UNCLOS III and already works through and with the International Council for Exploration of the Seas (ICES).

Through EU withdrawal and becoming a fully independent sovereign nation again we will be able to take our seat at the NEAFC and co-operate as outlined above with the other primary Nordic fisheries countries.

a) The UK will uphold its membership of these organisations and there is no particular reason we can foresee as to why not. However, the UK should, regarding fisheries, aim and legislate to never become enmeshed in a disaster like the CFP again. The UK's fishing industry and dependent coastal communities have been destroyed or/and decimated once and cannot and should not be a second time.

9. What type of relationship with the EU would best suit the UK's interests?

The United Kingdom should aim for a cordial relationship with the EU co-operating on fisheries only when necessary and when of mutual benefit.

The vote to leave the EU was a cry for the United Kingdom to become a fully independent sovereign nation state again able to control her own affairs and destiny for the interests and benefit of her people. Therefore, with regard to fisheries, we will/should aim, as outlined previously in all the questions above, regain control of our EEZ, work in only the broadest terms when necessary under international provisions with all other coastal states including the EU and never become enmeshed in such a tragic economic and environmental disaster

like the CFP again. This would allow us to manage and husband one of our countries greatest renewable resources for the benefit of the nation and future generations who depend upon it.

10. What could the UK learn from the fisheries relationships between the EU and the Faroe Islands, Greenland, Iceland and Norway?

- a. What do these examples tell us of the UK's future ability to restrict access to UK waters while trading with the EU?
- b. What do these examples tell us of ways to achieve MSY and regional management?
- c. What do these examples tells us about how to influence EU fisheries policy from outside the CFP?

The United Kingdom and the government should note from the experience of Norway and the other Nordic countries that independent, sovereign nations control and husband their fisheries in a far better manner than the EU. Where a mass bureaucracy and the over-riding principle of political integration over rules pragmatic, sensible, responsive management.

The relationship between the EU and these nations proves that we do not need to subvert control of our national interests to the EU in order to succeed. If small nations such as Norway and Iceland can prosper, especially in regard to fisheries, then it should not be beyond the United Kingdom of 65million people and one of the world's most powerful and successful nations to do so also.

The only thing that has stopped the UK from doing so is our membership of the EU driven by political ideology not the interests of strategic national benefit.

a) The examples of how Norway and Iceland stringently safeguard their fisheries and the historical precedent of them doing so (i.e. the Cod Wars) sets the precedent that the UK can quite easily follow. If the British distant water fleet was no longer able to access these nations waters than there is no reason the UK cannot rescind access for EU vessels.

b) Politically the example of the Nordic nations shows that national control is massively beneficial both in allowing the nation to exploit all its resources but also in terms of fit for purpose management.

Managerially there are a multitude of different ways to manage different fisheries but it must be in the way most applicable and suitable to a nations marine environment.

The UK has one of the most mixed demersal fisheries in the world and therefore a system such as quota that works in Norway (with less mix) has been proven not to work here. As the current quota system under the CFP has been both disastrous economically and environmentally the UK should look to a Days at Sea system. Vested political or industry interests in the current system must not be allowed to jeopardize sustainable fishing practices for self-interest under the current system.

c) The example of Norway and the other Nordic nations shows us that far greater power and leverage is available when a nation is in control of its own affairs rather than subservient to another authority such as the EU. The United Kingdom can, and will, incur massive benefits and should welcome the opportunity of being a free independent sovereign nation with the benefits it entails of being able to run our own affairs for our own benefit and interest.

In Summary

Brexit provides a one and only golden opportunity to harvest one of our nation's greatest renewable resources sustainably with a fit for purpose policy. It will provide the chance to rebuild the once proud UK fishing industry and coastal communities with the massive economic benefit entailed with reclamation of our EEZ and fishing resources.

Anything less for either political or a minority of vested industry interests would be a massive betrayal of the opportunity, Brexit and the Nation.

13 September 2016

Institute of Economic Affairs — Written Evidence (FBR0014)

1. Introduction

The response below relates to the attached briefing paper: Fisheries policy outside the EU: A Briefing. The paper is also available for download from our website www.iaea.org.uk

2. Which are the most urgent priorities for the UK's negotiations with the EU on a future relationship with the EU regarding fisheries and why?

a. What should the UK aim to achieve from this negotiation?

The UK should aim to repatriate fisheries policy whilst maintaining good relationships with the EU so that, where appropriate, agreement can be reached in relation to fishing grounds that overlap EU and UK waters.

3. Is it in the UK's interest to restrict access to UK waters for foreign vessels?

a. What impact could that have on reciprocal access rights and UK fishermen?

b. Which UK and non-UK Exclusive Economic Zones (EEZs) are most important to the UK fishing industry and which should the UK prioritise continued access to?

The UK should not restrict access to UK waters for foreign vessels (though this depends on the meaning of the word “restrict” – see below). It is not in the UK's interests to pursue a protectionist policy that will reduce the efficiency of the sea fisheries industry in general. The UK should develop a tradable quota system along Icelandic lines (see below). Foreign vessels should be able to take part in this system by buying quotas from UK vessels. If this were not possible, it is highly likely that complex ownership structures would develop to avoid the restrictions. If, in turn, this did not happen, then the consequence would be that the value to the UK vessels of their quota share would be lowered (because more efficient foreign boats would not be allowed to buy the share). This would be detrimental to the UK industry and also prevent price signals operating effectively to communicate the relative efficiency of different vessels. However, it is a matter of judgement whether foreign vessels are given free initial access to UK waters, restricted access or no access at all. The proposal below is that the government gives quota share to existing vessels for the indefinite future roughly in proportion to their share of the total catch at the current time. There might be a case for treating foreign vessels differently in this initial allocation (especially if they were in receipt of government subsidies) but not beyond this point.

4. Should the UK seek to preserve access to free trade in fish?

a. What trade-offs would likely be necessary in order to preserve access to free trade in fish and seafood?

Free trade in fish is very important because it ensures that fish are caught efficiently and sold where they have the greatest value. To do otherwise would be to waste scarce resources. However, free trade should be in the context of an over-arching architecture that led to the sustainable management of fisheries (see below).

5. What approach to achieving Maximum Sustainable Yield (MSY) and sustainable fisheries would be in the UK's best interest outside of the CFP?

This question is answered in detail in the attached brief paper.

a. Should the UK continue to co-ordinate Total Allowable Catches (TACs) and quotas with the EU and neighbouring countries?

It would need to do so where fishing grounds overlapped UK waters and those of the EU and neighbouring countries. Norway and Iceland already co-ordinate their policies.

b. To what extent should the UK preserve current TACs and quotas?

c. Could, or should, the UK seek to renegotiate the relative stability key? What alternative measure for agreeing and distributing TACs on shared stocks would be suitable after Brexit?

I will summarise here – the attached paper discusses this at great length (albeit still somewhat briefly). Trawler owners should be given or sold in auction the right to catch a given proportion of the TAC indefinitely equal to the proportion of the UK TAC they are currently fishing (see above regarding treatment of foreign vessels). That right should be tradable but should be a right in perpetuity. Once that is granted, trawler owners themselves (possibly with help from the government or scientific advisors) can set the TAC because they have a strong incentive to ensure conservation as this will maximise the market value of the quota and the income from the fish stocks in the long run. This essentially mirrors an already-successful system in Iceland.

6. What obligations to co-operate on fisheries management exist under international law?

a. How will this affect the UK's ability to restrict access for foreign vessels to the UK?

It would be worrying if the UK took the opportunity to withdraw from the EU to become protectionist in this area.

b. To what extent will historical access rights affect the ability to restrict foreign vessels from accessing UK waters, or other countries' ability to restrict UK access to their waters?

See above on the issue of historical access rights for foreign vessels in UK waters. My view is that, by and large – unless there is a very good reason otherwise – foreign vessels should be treated like UK vessels and able to take up quota share in proportion to historical rights.

7. What type of relationship with the EU and neighbouring countries would be preferable for securing effective regional management and co-operation?

a. With whom should the UK seek to establish bilateral relationships?

Those countries with which we have shared fishing grounds.

8. What could the UK learn from the fisheries relationships between the EU and the Faroe Islands, Greenland, Iceland and Norway?

a. What do these examples tell us of the UK's future ability to restrict access to UK waters while trading with the EU?

b. What do these examples tell us of ways to achieve MSY and regional management?

c. What do these examples tell us about how to influence EU fisheries policy from out-side the CFP?

See the attached paper. My concern with the slant of these questions is that they seem more concerned with managing international relationships with the possible protectionist exclusion of foreign boats than with the ability to attain a fisheries policy that will be environmentally sustainable and economically efficient in the long-run interests of the British people. The attached paper explains how such a policy could look.⁷³

27 September 2016

⁷³ IEA Briefing: 'Fisheries Policy Outside the EU' Professor Philip Booth

Institute for European Environmental Policy — Written Evidence (FBR0003)

The Institute for European Environmental Policy (IEEP) is an independent non-profit research institute based in London and Brussels. Both leading up to and after the referendum on June 23rd, IEEP has been working with environmental stakeholders in the UK to identify the risks and opportunities arising from a UK departure from the EU, including in our earlier reports for UK NGOs and for the All-Party Parliamentary Group on the Environment. IEEP will be continuing to work in the UK and across the EU to improve public understanding and awareness of the challenges the UK's departure poses for environmental policy.

Within the scope of the House of Lords EU Energy and Environment Sub-Committee's inquiry, IEEP urges that the following points are important to consider.

Objectives for future UK fisheries

The precise future relationship between the UK and the EU is currently unknown and it is possible that that relationship will have unique aspects. However, for the purposes of this evidence, we assume that the UK after leaving the EU will no longer apply the Common Fisheries Policy (CFP).

As a result, an immediate priority will be to adopt domestic objectives for UK fisheries and a policy/legal framework to deliver these, replacing the objectives currently driving policy development and fisheries management measures in EU Member States as stipulated in the CFP. Outside the CFP, the UK will have full responsibility for management of the marine environment and resources not only of its territorial waters, but also of the UK Exclusive Economic Zone (EEZ). The over-arching objective in the best interests of the UK, and in line with its commitments to the UN Sustainable Development Goals, is therefore to protect these resources in the long term from further destruction and overexploitation.

Key management concepts and principles

Combined with a clearly stipulated objective for UK fisheries management, a number of key management concepts and principles need to be formally adopted in the new domestic legislation. We see no reason for abandoning the concepts of Maximum Sustainable Yield (MSY), Total Allowable Catches (TACs) or quota allocations. These are well-established management concepts both in the industry, and among management authorities and policy makers, and replacing them could create confusion and significant uncertainty for many years. It is difficult to see any other suitable alternatives. These concepts are also widely adopted internationally and will continue to guide EU fisheries policy. Cooperation between the UK and other states and regions will be essential, and will be much easier if key concepts common to our neighbours and partners are retained.

It will also be important to ensure that a future UK policy framework retains key principles, including a precautionary, adaptive and ecosystem-based approach to fisheries management.

Access rights

Equal access within EU EEZs will no longer apply to British waters and agreements between the EU and other states will probably no longer be valid for the UK. The UK will therefore need to renegotiate and/or establish new bilateral agreements on fishing rights with states whose waters are of interest to UK fishermen and vice versa. We find it difficult to imagine a scenario where the UK could restrict access for all foreign vessels, both due to historical

agreements that may still apply, the regional political reality and need for compromise in the exit negotiations.

If the UK were to enter the European Economic Area (EEA) or adopt any similar arrangement with the EU involving freedom of establishment for firms and individuals within the single market, which then allows them to acquire fishing vessels and apply for quota in that state, 'quota-hopping' would also continue to some degree. Further, the National Federation of Fishermen's Organisations (NFFO) has said that it is essential that the UK negotiates access to EU markets as part of the exit agreement (NFFO, 2016). If the UK were to retain access to the single market (either as a member of the EEA or through a new bilateral arrangement) it might also mean some level of access for EU vessels to British waters. Leaving the single market would, on the other hand, be likely to result in the reintroduction of trade-tariffs (Kleinjans, 2016), although it depends on the details of trade deals established post-Brexit. Further, if UK companies wish to keep selling their fish and seafood to the EU market, they may still have to comply with, for instance, the EU rules on illegal, unreported and unregulated fishing (Barnes and Rosello, 2016).

Regional cooperation

It is in the best interest of the UK to cooperate with states with which it shares stocks and/or has bordering EEZs. From a stock perspective, some stocks important to UK fishermen either migrate across borders over the course of their life stages or simply roam habitats stretching across more than one nation's EEZ. Coordinated management of fishing pressure is therefore essential. Regional cooperation is also a prerequisite to achieving healthy oceans overall, as marine space is by definition interconnected. The health of marine ecosystems in and around UK waters will directly impact the state of commercially targeted stocks located therein.

Process for negotiating Total Allowable Catch (TAC) and TAC allocations

The UK should continue to co-ordinate TACs with the EU and other neighbouring countries with whom it shares stocks. Firstly, the rationale behind TACs is to set a total limit for annual catches according to the latest scientific advice for individual stocks and at levels that equate to MSY. Were the UK to set its own catch limits in parallel to the EU or other states fishing the same stocks, the total fishing pressure on individual stocks would be likely to increase. This could result in less sustainable fisheries in the region and would therefore not be in the best interest of the UK. Secondly, international law requires states to set catch limits within their EEZ and to collaborate regionally to this end.

Importantly, it is not known at this point what post-Brexit TAC negotiations would look like or whether new fora for such negotiations will need to be established. For stocks shared between the UK and the EU, there are likely to be bilateral negotiations similar to those between the EU and Norway, or the EU and Iceland. For stocks shared between the UK and non-EU countries, negotiations will probably take place through the North East Atlantic Fisheries Commission (NEAFC). Importantly, however, the UK may need to re-establish its NEAFC membership as a single state, a process which is far from straight-forward. It would seem most efficient and least destructive to aim to continue regional cooperation within already existing frameworks, if possible. If no new international arrangements have been established for how to negotiate and allocate TACs when the UK effectively leaves the EU, it will probably need to adopt a temporary domestic scheme for autonomously establishing catch limits and allocating quota.

In negotiations with EU and other states, it is important that the UK continues to commit to setting TACs based on scientific advice. This approach was formally adopted in the latest reform of the CFP, but is yet to solidify in practice. Should the UK backtrack on this commitment post-Brexit and allow continued influence of short-term economic interests on the setting of catch limits, long-awaited and important progress in terms of achieving sustainable fisheries would be at risk. Therefore, the long-term sustainability of the UK fishing industry would also be placed at risk.

Monitoring and reporting

Regional and international collaboration is crucial also for monitoring. For example, information from monitoring and reporting of fishing activities is important in the TAC assessment and negotiation process, in order to evaluate the pressures imposed on fish stocks and marine ecosystems from fishing activities, but also to be able to adopt appropriate policy responses. The new CFP requires EU Member States to cooperate with third countries regarding data collection. Neighbouring EU states would therefore seek cooperation in this regard with the UK. The CFP also requires EU Member States to cooperate with third countries and international organisations for the purpose of improving compliance with international measures, including combating illegal, unreported and unregulated fishing (IUU).

Quota allocation

In terms of national quota and the relative stability key applied among EU Member States, we find it hard to see that the remaining Member States would agree to renegotiate, especially considering that the UK already has received special consideration and an advantageous allocation. Nevertheless, the relative stability key is likely to be one of the primary potential areas for trade-offs in the exit negotiations, e.g. against certain aspects of market access.

Allocation of quota to individual fishing companies is a Member State competence under the CFP and will therefore not be directly affected by Brexit.

While our evidence does not address in detail the additional complexity arising from responsibility for fisheries policy being devolved to the Governments and administrations in Scotland, Wales and Northern Ireland, it is worth noting that this situation potentially affects the UK's credibility and reliability as a negotiator in bilateral fisheries discussions. Fisheries policy is thus one of a number of areas where the additional scope for policy-making associated with an exit from the EU could require renegotiation or redefinition of the current devolution settlement.

Sustainable fisheries management in international law – key points

Despite Brexit, the UK will still have to abide by its international commitments to sustainable management of fisheries under the Convention on Biological Diversity (CBD), UNCLOS and the UN Fish Stocks Agreement (FSA). This includes UNCLOS' call on States to cooperate, or at the very least to negotiate, with respect to the management and conservation of all categories of shared stocks. However, international law is weaker concerning the sustainability of fisheries than the CFP (e.g. UNCLOS states that best scientific knowledge 'should be taken into account' compared to the CFP's 'shall be based on'). Parties of UNCLOS have often been shown to disregard these provisions (Birnie et al., 2009). NEAFC recommendations must also be based on best scientific evidence, apply a

precautionary approach and take ‘due account’ of impacts of fisheries on marine ecosystems and of conservation of marine biodiversity . However, similar to most international law, there are no means to ensure compliance as there is in the EU. In fact, RFMOs (such as NEAFC) have been criticised for, e.g., deficiencies in terms of implementation, monitoring and sanctioning (see e.g. Ceo et al., 2012).

Although there might be a political temptation for some to push for higher TACs in order to deliver on the promises made to fishermen in the referendum campaign, this seems unlikely and would be strongly resisted by e.g. the NGO community. Considering how the UK has negotiated previously , this could further delay the practical application of MSY and other principles. A larger number of single negotiators with a strong stake in the issue can also create stalemate, illustrated for example by the lengthy disputes over mackerel catches in the north-east Atlantic (HM Government, 2014).

Moreover, international law does not have the enforcement power of EU law, for example to hold states accountable for management and conservation of fish stocks. In fact it is common that flag states fail to enforce control of their ships within their EEZ (Birnie et al., 2009). Importantly, the compulsory dispute settlement mechanism in UNCLOS does not apply to EEZ waters. Meanwhile, other pieces of international soft law, such as FAO measures, are not legally binding. The UK will, therefore, need to establish a clear monitoring and enforcement plan to replace existing structures.

A sustainable future UK fisheries regime

Brexit is also, theoretically, a chance for the British government to adopt a more ambitious approach to environmentally and economically sustainable fisheries. For example, the new legislative framework on fisheries could be integrated with nature conservation policy and the Marine and Coastal Access Act (MCAA) and Marine (Scotland) Act 2010 to try to achieve a healthy ocean overall. The UK could aim to link local economic regeneration investment in communities where fishing is an important activity more closely to a commitment to sustainable fisheries management, and the value added that could potentially be derived from it. Achieving sustainable UK fisheries and rebuilding key North East Atlantic stocks would furthermore make the UK entirely self-sufficient in fish (NEF, 2016). By achieving more sustainable British fish and seafood production and consumption systems, there might also be room to tap into a niche market of supplying safe and ethical products domestically. This would require British consumers to be willing to pay a price premium for such products, and the UK to be able to police fisheries effectively in its waters, and, ultimately, to be able to influence EU decisions under the CFP on waters which have an effect on fish stocks around the UK .

Final remarks

Perhaps the greatest risk for fish stocks is if negotiations are prolonged without a new deal and the UK falls into a default scenario for several years. Fisheries policy is thus among a number of areas which are particularly vulnerable in the event of a “hard” exit, without a negotiated arrangement with the EU-27. Key aspects in the exit process are, from a sustainable fisheries perspective, how the UK will cooperate regionally and how access to waters, fishing rights and TACs will be established and allocated. The following aspects are examples of what needs to be addressed in the subsequent development of domestic policy. Their outcome can have significant impact on the sustainability of future British and European fisheries:

- Formally commit to MSY, best scientific advice, precautionary, ecosystem-based management.
- Formally commit to phasing out discarding of catches, coupled with results-based management.
- Identify what will be required in terms of monitoring and control, and how to secure resources for successful enforcement. Establish a new scheme for international cooperation on monitoring and adopt the more ecosystem-based model of the proposed new EU Data Collection Framework, which also commits to monitoring the ecosystem impacts of fisheries.
- Commit to providing the same reporting to ICES as the UK currently does as an EU Member State.
- Ensure that any continued funding for the fishing industry is directed towards improving its sustainability, and coordinated closely with economic regeneration investment.

The history of policy in this area does not suggest that drastic reform in favour of sustainable fisheries and ecosystem-based fisheries management in the UK would be more likely outside the CFP. Governing industrial-scale fisheries is complex and those nations that have achieved a relatively sustainable fisheries management (for instance New Zealand, Australia and the US) have spent 20–40 years testing different approaches. They have also generally had sole jurisdiction of their EEZs and are relatively isolated in relation to other nations' waters. These conditions do not apply to the UK. Instead, the British Government might be tempted to relax environmental credentials of commercial fisheries post-Brexit.

The UK should avoid back-tracking by all means and rather aim to 'cherry-pick' and continue to improve, based on British conditions, the policy interventions in the EU that are delivering positive results in terms of reducing the environmental burden imposed by industrial-scale fishing. The CFP has, rightly, been criticised over many years for failure to deliver sustainable fisheries, but it has made important steps forward across a range of issues. Criticism of the CFP in political debate and in the context of Brexit negotiations should not lead to a devaluation of these positive steps but, instead, the UK should use the opportunity of Brexit to identify how to build on these to produce more sustainable UK fisheries. Such an approach could have a positive influence on the future development of EU policy (while, in contrast, a failure to adopt objectives such as Maximum Sustainable Yield and take the decisions required to deliver them would weaken the prospects for successful reform of the CFP in the EU-27). An ambitious sustainable approach will require strong political will in a direction conflicting to the one currently embarked on, especially on enforcement and collaboration with neighbouring countries.

31 August 2016

Vidar Landmark, Geir Ervik and Sigurgeir Thorgeirsson — Oral Evidence (QQ 22 – 31)

Vidar Landmark, Geir Ervik and Sigurgeir Thorgeirsson — Oral Evidence (QQ 22 – 31)

[Transcript can be found under Geir Ervik, Vidar Landmark and Sigurgeir Thorgeirsson — Oral Evidence \(QQ 22 – 31\)](#)

Marine Conservation Society — Written Evidence (FBR0006)

Fish know nothing of political borders. So in or out of the EU we still need to work with our neighbours to manage and restore our fish stocks and marine biodiversity. It is critical that the excellent laws and commitments governing marine and fish stock management are retained, while new opportunities for enhancing our seas may also arise in time.

The Marine Conservation Society (MCS) is the UK charity dedicated to the protection of our seas, shores and wildlife. MCS campaigns for sustainable fisheries, clean seas and beaches, protection of marine life and their habitats, and the sustainable and sensitive use of our marine resources now and for future generations. Through advocacy, community involvement and collaboration, MCS raises awareness of marine conservation issues and promotes individual, industry and government action to protect the marine environment.

Response

In 2012, the UK Government led the charge for a radical reform of the Common Fisheries Policy (CFP), which, after decades of overfishing, resulted in a policy to be proud of.

The reform of the Common Fisheries Policy (CFP) was a significant success for sustainable management driven by the UK from within both the Council of Ministers and the EU Parliament. Ending overfishing became a legally binding commitment of the CFP with deadlines for fishing at sustainable levels in line with Maximum Sustainable Yield (MSY) for all commercial fish stocks by 2020 at the very latest. This cemented long term sustainability at the heart of the CFP, additionally there was the inclusion of article 17, which provided Member States the opportunity to distribute their quotas based on criteria such as social benefits and reducing wider impacts to the ecosystems and biodiversity.

Fishing at sustainable levels however, is not only enshrined within the CFP but is a requirement of several other international commitments, such as the United Nations Convention for the Laws of the Sea (UNCLOS). There is already evidence that fishing at MSY can provide economic benefits – the UK is currently benefiting from the sustainable exploitation of North Sea Sole and Plaice which have seen their value increase in recent years. Ensuring fishing at MSY for all stocks must remain an integral part of any fisheries management in the UK and must for the cornerstone of fishing legislation being developed to fill the vacuum that may be left by the CFP. Collaboration will therefore be key to ensure that the UK and the EU maintain their strict policy of fishing at sustainable levels by 2020 and beyond.

The CFP has many other objectives which should be maintained after Brexit to ensure that the UK remains a world leader in fisheries management and sustainability. These include the commercial landing obligation; the establishment of long term regionalised management plans; establishment of fish stock recover area and the potential for greater rewards for low-impact sustainable practices. All of these objectives should be embedded. Given it was the UK that took a leading role in both the EU Parliament and Council of Ministers to drive forward these positive changes, we feel re-committing to these policies in UK law is particularly important, to ensure that they continue when we are no longer a member of the EU.

The UK fishes more than 100 stocks of fish and shellfish in EU waters. In 2015 we were allocated 30% of the total quota for these stocks including; 84% of the North Sea haddock quota, 81% of North Sea monkfish quota and 28% of North Sea plaice quota.

Overall the UK has the second highest quota in the EU after Spain. Post-Brexit we would have to undertake separate negotiations with the EU, Norway etc, to agree on quota for

straddling fish stocks, which could result in changes to our allocated share of the quota, which could go up or down. Our right to fish in other Member States' waters, and they in ours, will need to be renegotiated with real care and many existing agreements retained to prevent various legal challenges under international law. The negotiations must not lead to an increase in overall fishing effort and straddling stocks, i.e. fish stocks that migrate through, or occur in, more than one exclusive economic zone, still need to be fished below MSY by 2020.

9 September 2016

New Economics Foundation — Written Evidence (FBR0007)

Summary of key points

- The first priority of the UK government with respect to fisheries and Brexit should be to pass legislation ensuring that the European Union's Common Fisheries Policy continues to remain in effect should the UK exit the EU. This is necessary as new UK fishing legislation will take many years to cover all the areas currently addressed by the CFP. It will also provide some certainty and direction to those within the industry.
- After this move is made, ensuring the CFP is in operation under any Brexit scenario, the UK can then decide if a new direction is required in any aspect of fisheries policy. A review of the evidence, presented in this submission, suggests that a significant change in direction for UK fisheries management is neither possible nor desirable.
- The UK faces a large number of constraints that make any major change in direction of fisheries management impractical. These constraints include: the necessity to avoid any tariffs, the close geography and fish stocks the UK shares with the EU, the majority of marine resources being held by Scotland, the difficult timeline with many of the EU's major fisheries policies targeting 2020 for delivery, the weak position of Defra and the MMO to take on new responsibilities, and the relatively small priority that will be assigned to fisheries during negotiations with the EU.
- A large change in direction for UK fisheries management is not desirable. The Common Fisheries Policy is increasing the abundance of fish stocks, increasing quotas, increasing in landings and increasing profits. There are troubling issues in UK fisheries to be addressed, but many of the issues with quota management have more to do with the distribution of quota by the UK government than anything controlled at the EU level. Issues for reform at the EU level, which could be targeted during Brexit discussions, include relative stability and a more equal application and enforcement of EU legislation.
- The so-called "third countries" of Iceland, the Faroe Islands, Norway and Greenland do not present a preferred alternative for UK fisheries management compared to the current situation with the CFP. While these countries are further in their transition to sustainable fish stocks, they benefit greatly from being geographically isolated and thus more simple to manage. Where these countries do have shared stocks the results are often disastrous, as our research on scientific advice and negotiated quotas has shown.

Which are the most urgent priorities for the UK's negotiations with the EU on a future relationship with the EU regarding fisheries and why?

What should the UK aim to achieve from this negotiation?

As fish stocks are a shared resource between the UK and the EU, the most urgent priority is for the UK to ensure that the management of fish stocks is also shared at a European level.

This means that the UK should form a relationship with the EU that allows for continued participation in the EU's Common Fisheries Policy (CFP).

The continuation of shared waters under the CFP would be viewed as an understandable concession for the UK to make, with an additional benefit that the UK can request that the more troubling aspects of the CFP are revisited as part of these negotiations. In particular, the 'relative stability' of quotas that are allocated to different EU Member States (especially those quotas with high UK uptake and low EU uptake) should be revisited and the perception of uneven enforcement of fisheries regulations across EU Member States should be addressed.

A key advantage of pursuing this approach is its relative legal simplicity over other alternatives. Andrew Oliver of Andrew Jackson solicitors has reviewed the legal side of fisheries and Brexit and concluded in Fishing News that "The starting point for negotiation of post-Brexit fisheries obligations, and potentially the easiest route, would be to largely adopt EU law, resulting in the least potential change to the status quo." At present, EU law applies in the UK under Section 2(1) of the European Communities Act 1972, but Brexit would mean the repeal of the ECA. To deal with this, Mr. Oliver proposes that:

*"The simplest way of resolving this would be further legislation in the UK that all European law should continue to have effect as if Section 2(1) had not been repealed unless revoked or amended. This would buy the legislature time to review and put in place its own legislation."*⁷⁴

This model of a close relationship on fisheries with the EU is not a large departure from the position of fisheries Minister George Eustice. While the Minister campaigned for Brexit, he has detailed that he would like to keep the MSY target, keep the quota system, keep the discard ban, and keep international negotiation, but he also wants the UK to negotiate quotas with Norway, Iceland and the Faroes as another seat at the table and is sceptical that revisiting relative stability could happen with the EU. The evidence on quota negotiations outside of the EU structure and the issue of relative stability are addressed in sections 4a and 4c respectively.⁷⁵

Problems with the CFP can be addressed within the existing framework (as they have in the past). Staying a part of the CFP means keeping a system that works⁷⁶ and is unlikely to change significantly given the realities of the industry and of governance discussed in this document. Instead of adding more issues to resolve in Brexit negotiations, fisheries management is a policy area where the UK can push for a couple key policy to be addressed within the framework of the CFP and before the next round of major reforms.

Is it in the UKs interest to restrict access to UK waters for foreign vessels?

What impact could that have on reciprocal access rights and UK fishermen?

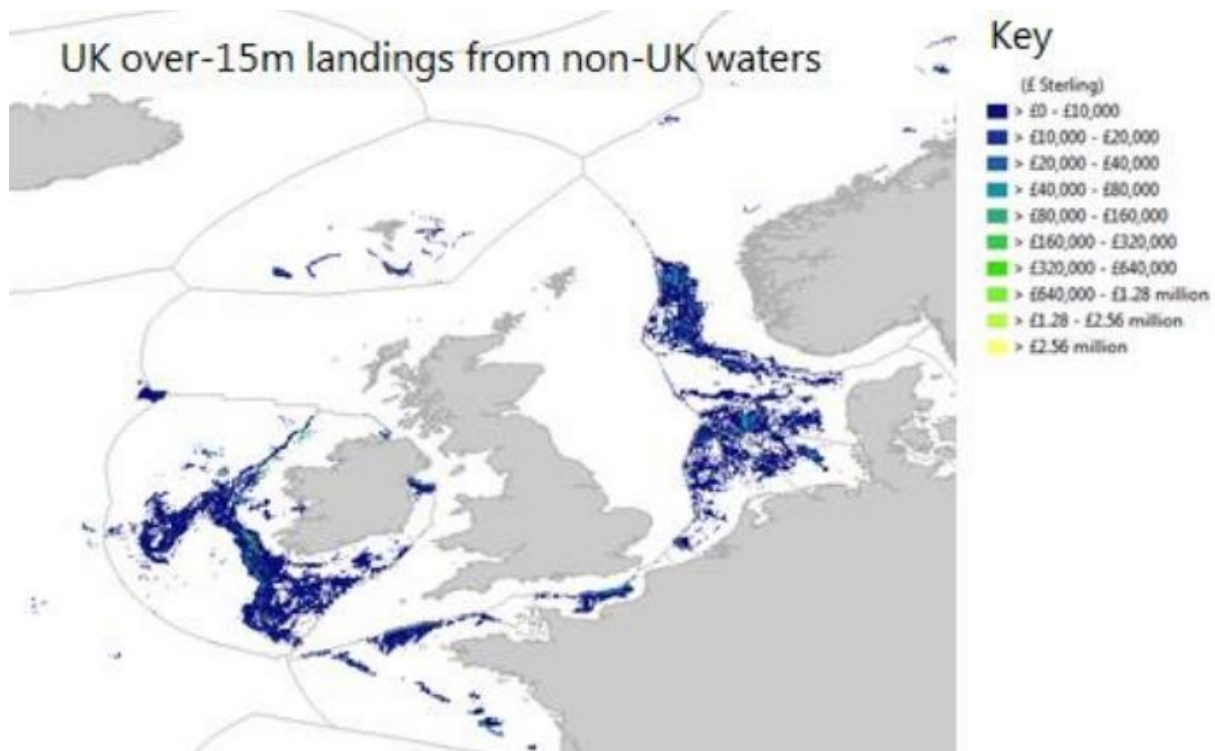
Whether it is in the UK's interest to restrict access to UK waters for EU vessels largely depends on if and how there is a reciprocal restriction of access to UK vessels in EU waters.

⁷⁴ Oliver, A. (2016) Brexit and the legalities. *Fishing News*, July 2016. Retrieved from: <http://fishingnews.co.uk/2016/07/2092/>

⁷⁵ Eustice, G. (2016). The fishing industry and Brexit. *George Eustice MP*, 13 April 2016. Retrieved from: <https://www.georgeeustice.org.uk/news/fishing-industry-and-brexit>

⁷⁶ Carpenter, G. (2016). The EU Common Fisheries Policy has helped, not harmed, UK fisheries. *OpenDemocracy*, 13 January 2016. Retrieved from: <https://www.opendemocracy.net/can-europe-make-it/griffin-carpenter/eu-common-fisheries-policy-has-helped-not-harmed-uk-fisheries-0>

According to MMO data – for vessels over 15 metres in length (the mobile sector) – 17% of the UK’s landing value comes from EU waters. This 17% should be counted against any potential gain from restricting foreign vessels to calculate the “net effect”.⁷⁷



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Source: ABPmer – Brexit: Where next for UK fisheries

Realistically, few analysts suggest that a total restriction of foreign vessels in accessing UK waters is possible or desirable. There are practical and legal issues associated with such a restriction (addressed in question 6b), but there is also debate around whether such a restriction would be desirable even if it were possible.

The evolution of the fishing industry in the EU has led to specialisation by species as much as by area. In the North Sea for example, the UK has specialised in several whitefish fisheries including cod and haddock, whereas other EU members – like the Netherlands – have specialised in pelagic including herring.

As a result, both the UK and the Netherlands fish in each other’s territorial waters but for different species. From fishing gear to processing plants to national tastes – it would take decades to reverse this process of specialisation and for each nation to start effectively fishing the diversity of species they catch closer to shore. Any economic benefit of such a change is questionable.

⁷⁷ Walmsley, S. (2016). *Brexit: Where next for UK fisheries?* Southampton: ABP Mer. Retrieved from: <http://www.abpmer.co.uk/media/1487/white-paper-brexit-where-next-for-uk-fisheries.pdf>

⁷⁸ *Op cit.* Walmsley (2016).

Which UK and non-UK Exclusive Economic Zones (EEZs) are most important to the UK fishing industry and which should the UK prioritise continued access to?

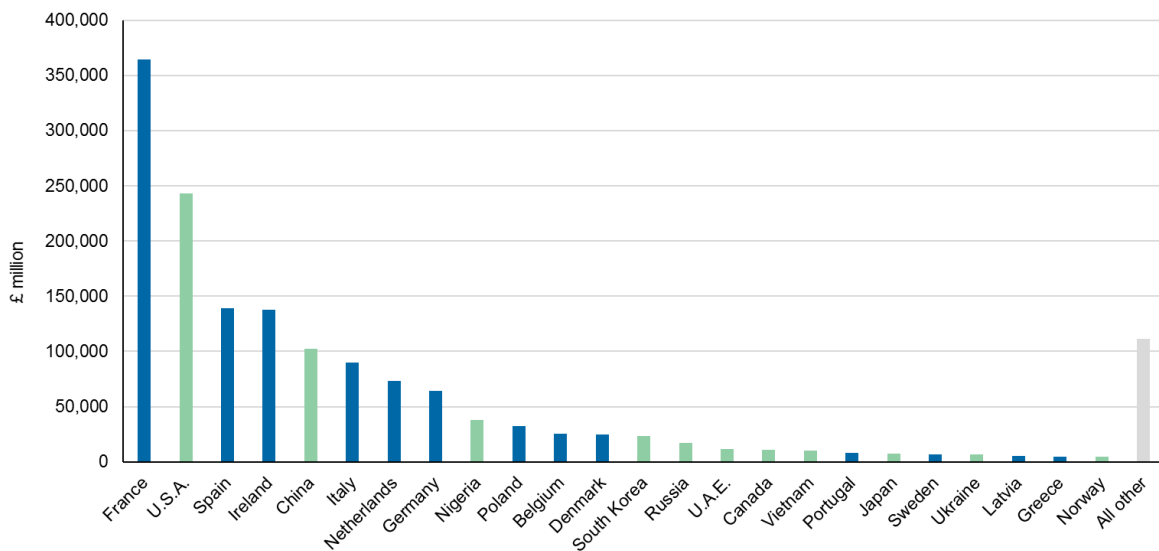
There are largely three areas of non-UK Exclusive Economic Zones that are important to the UK fishing industry: the South and West of Ireland, the South side of the English Channel, and the East side of the North Sea.

Should the UK seek to preserve access to free trade in fish?

What trade-offs would likely be necessary in order to preserve access to free trade in fish and seafood?

It is hard to overstate the importance of EU trade to UK fisheries. The UK currently exports 80% of its fish, and 65% of that goes to the EU.⁷⁹ In that respect the EU market for fish is actually of more importance to UK fishers than the UK market.

Export of fish and fish products from the UK (2014)



Source: Marine Management Organisation - UK Sea Fisheries Statistics 2014



As such, it is critical that any post-Brexit scenario for fishing maintains trade in fish, and fish products, with as few tariffs as possible. While some may hope that UK demand for fish could replace sales lost through EU tariffs, it is clear to those in the industry that UK consumers are not willing to change their tastes to suit the diversity of fish caught by UK vessels. This is despite countless public campaigns from the government, NGOs and industry alike. Even if there were an increase in demand from UK consumers, it is very unlikely that it would reach the price premiums currently paid by French and Spanish consumers (for UK-caught langoustine, for example). There is no reason to think that the structure of the EU relationship would change these consumer demands.

Finally, even if a dramatic change did take place and UK fish consumption and harvest became more of a closed loop, this change would come with a significant cost to the industry in order to alter existing supply chains.

⁷⁹ Marine Management Organisation. (2015). UK Sea Fisheries Annual Statistics Report 2014. Marine Management Organisation. Retrieved from: <https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2014>

The University of Aberdeen conducted a survey of UK fishers on Brexit ahead of the vote. Researchers found that the vast majority wanted out of the EU (not surprising given the attitudes of the regulated to the regulator in other sectors), and that fishers thought Brexit would result in an increase in UK quota but no change in market access.⁸⁰ Unfortunately we can only speculate which of these issues would be more important to fishers should a trade-off emerge.

Yet this trade-off is likely given the EU's interest in resisting an increase in the UK's quota share. This reality was best described in a post-Brexit blog by the National Federation of Fishermen's Organisation's:

“Promises have been made and expectations raised during the referendum campaign and it is now time to examine if and how they can be delivered. Unfortunately perhaps, the UK's geo-political position means that it is not politically or legally possible just to ring-fence most of our fish resources in the way for example that Iceland can. The reality is that most of our stocks are shared with other countries to some degree or other.

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.”⁸¹

What approach to achieving Maximum Sustainable Yield (MSY) and sustainable fisheries would be in the UK's best interest outside of the CFP?

Should the UK continue to co-ordinate Total Allowable Catches (TACs) and quotas with the EU and neighbouring countries?

Achieving Maximum Sustainable Yield (MSY) is the most important objective for UK fisheries, regardless of the UK's relationship with the EU and should remain a priority. According to NEF modelling, reaching a state of MSY could double UK landings and lead to an increase in revenues, profits, jobs and wages for the UK industry.⁸² In this sense, the question of how different management arrangements will help or hinder the transition to MSY is the most important question to consider.

The main barrier to reaching MSY is that it involves investing in rebuilding fish stocks. This means setting lower Total Allowable Catches (TACs) to prevent overfishing, which can then rise in the future (even higher than the initial state) once the stock has grown in size. While MSY theory is a core tenant of natural resource economics, it has been difficult to achieve in practice as EU Ministers are not keen on delivering the message to their industry that they should fish less next year.

Instead, and due in part to active lobbying from the fishing industry, Ministers resist scientific advice on quota levels that could achieve MSY. They often emerge from EU quota negotiations stating that they have 'won' extra quota for the industry by getting TACs their industry fishes set higher than what was advised. Our research on ICES scientific advice and

⁸⁰ University of Aberdeen. (2016). *Survey finds 92 per cent of UK fishermen will vote to leave the EU*. Aberdeen: University of Aberdeen. Retrieved from: <https://www.abdn.ac.uk/news/9282/>

⁸¹ National Federation of Fishermen's Organisations, The. (2016). *Brexit*. National Federation of Fishermen's Organisations, 24 June 2016. Retrieved from: <http://nffo.org.uk/news/brexit.html>

⁸² Carpenter, G. & Esteban, A. (2015). *Managing EU fisheries in the public interest*. London: New Economics Foundation. Retrieved from: <http://www.neweconomics.org/publications/entry/managing-eu-fisheries-in-the-public-interest>

agreed TACs over the past 15 years shows that on average TACs are set 20% above advice.⁸³

This finding clearly demonstrates the problems with TAC-setting and the transition to MSY within the EU structure. However the UK is not blameless, as the UK TAC is on average about 17% above scientific advice and due to the size of industry the UK holds the second largest amount of TACs above advice (after Denmark).⁸⁴

For TACs set with third countries outside the EU (Iceland, Norway, Faroes, Russia) TACs are actually set even higher (24% vs 19% above scientific advice).⁸⁵ This finding is not surprising given the different management structures. While EU TAC negotiations are flawed, an agreement must be reached, but TAC negotiations can, and do, break down.

To avoid more instances of failed negotiations and unilateral TACs – termed the mackerel war⁸⁶, herring war⁸⁷, and the cod wars I and II⁸⁸ – fisheries negotiators will agree on TACs higher than scientific advice to ensure all parties can claim that they “won”. As economics theory predicts, this loose arrangement leads to non-cooperative outcomes.⁸⁹ No one party will want to reduce its catch limit if another party will simply increase theirs, so catch limits tend to rise together. Ultimately it is the stakeholder that does not have a voice during quota negotiations – the fish stocks and future generations – that lose.

This issue of how negotiations would be worse outside the EU was best described by Bertie Armstrong of the Scottish Fishermen’s Federation:

“...Bertie Armstrong, chief executive of the Scottish Fishermen’s Federation, says that in his personal opinion, and he stresses this isn’t the view of his organisation, exit from the EU could actually make things worse:

‘Common sense suggests that collective action is better than a load of individuals competing, and in the fishing industry that’s largely true. Collaborative action, so that no one individually overfishes or you don’t have what could be referred to as the tragedy of the commons of everyone trying to fish a little more than their neighbour – the negotiations to have a sensible place outside the tent would be very complicated and full of hazard, particularly full of hazard for us.’⁹⁰

The great danger is that every single UK TAC is a shared stock, meaning that outside of a formal EU arrangement TACs may move further from scientific advice and MSY. As each of these quotas is negotiated the potential for negotiations to breakdown increases.

⁸³ Carpenter, G. & Kleinjans, R. (2015). *Landing the blame: Overfishing in EU waters 2001-2015*. London: New Economics Foundation. Retrieved from: <http://www.neweconomics.org/publications/entry/landing-the-blame>

⁸⁴ *Op cit.* Carpenter & Kleinjans (2015).

⁸⁵ *Op cit.* Carpenter & Kleinjans (2015).

⁸⁶ Davies, C. (2010). Britain prepares for mackerel war with Iceland and Faroe Islands. *The Guardian*, 22 August 2010. Retrieved from: <https://www.theguardian.com/environment/2010/aug/22/britain-iceland-faroe-islands-mackerel-war>

⁸⁷ Cressey, D. (2013). EU escalates ‘herring war’ with Faroe Islands. *Nature.com*, 21 August 2013. Retrieved from: <http://blogs.nature.com/news/2013/08/eu-escalates-herring-war-with-faroe-islands.html>

⁸⁸ Smith, L. (2010). Iceland walks out of fishing talks. *The Independent*, 13 December 2010. Retrieved from: <http://www.independent.co.uk/news/uk/politics/iceland-walks-out-of-fishing-talks-2158681.html>

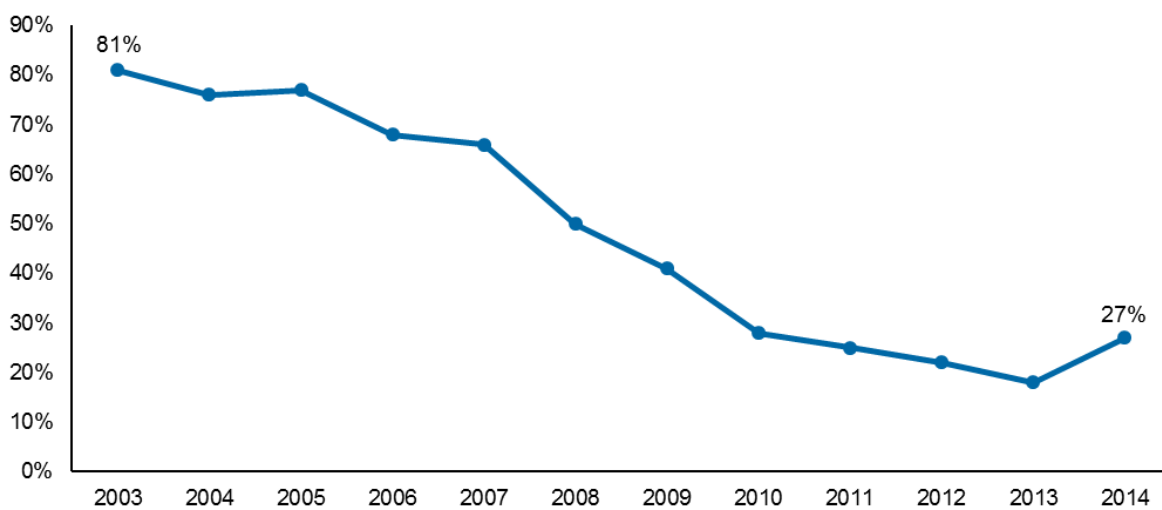
⁸⁹ Game theory

⁹⁰ BBC Radio 4. (2016). The environment after exit. *Costing the Earth*, 16 March 2016. Retrieved from: <http://www.bbc.co.uk/programmes/b07378d3>

To what extent should the UK preserve current TACs and quotas?

As a system, the UK should preserve TAC/quota management, not least to harmonise the “currency” of fisheries management with other countries and the EU that fish shared stocks. Just as important, evidence from around the world shows that quota management is an effective way to limit fishing effort and achieve.⁹¹ While the sustainability of the EU quota system has trailed other developed regions for understandable reasons (more overlapping stocks, higher initial fishing pressure), there are clear signs that quota management is working in EU waters as well. Overfishing (fishing mortality above fishing mortality associated with MSY) has declined,⁹² stocks are growing in size,⁹³ many quotas are now on the rise,⁹⁴ industry investment is increasing,⁹⁵ and industry profits are increasing to high levels (gross profit margin of 25%).⁹⁶

Average level of overfishing in the EU



Source: STECF - Monitoring the performance of the Common Fisheries Policy



While it is true that these gains are not being felt evenly, this is largely a separate issue from managing fisheries under quota, or even the level of quota itself, but more about distribution decision made by the UK government. In their open letter to The Times responding to Minister George Eustice’s op-ed on supporting Brexit, former fisheries ministers Richard Benyon and Ben Bradshaw, among eleven other UK fisheries experts, note that:

⁹¹ Marchal, P., Andersen, J.L., Aranda, M., Fitzpatrick, M., Goti, L., Guyader, O., Haraldsson, G., Hatcher, A., Hegland, T.J., Le Floch, P., Macher, C., Malvarosa, L., Maravelias, C.D., Mardle, S., Murillas, A., Nielsen, J.R., Sabatella, R., Smith, A.D.M., Stokes, K., Thøgersen, T. & Ulrich, C. (2016). A comparative review of fisheries management experiences in the European Union and in other countries worldwide: Iceland, Australia, and New Zealand. *Fish & Fisheries* 17 (3), 803-824.

⁹² Scientific, Technical and Economic Committee for Fisheries (2016a). Monitoring the performance of the Common Fisheries Policy (STECF-16-03). Publications Office of the European Union. Retrieved from: <http://publications.jrc.ec.europa.eu/repository/bitstream/JRC100814/lb-ax-16-003-en-n.pdf>

⁹³ *Op cit.* STECF (2016a).

⁹⁴ Scientific, Technical and Economic Committee for Fisheries (2016b). The 2016 annual economic report on the EU fishing fleet (STECF-16-11). Publications Office of the European Union. Retrieved from: https://stecf.jrc.ec.europa.eu/c/document_library/get_file?uuid=f519adc4-c5cf-4b0a-9fd5-0dd7b3108974&groupId=43805

⁹⁵ *Op cit.* STECF (2016b).

⁹⁶ *Op cit.* STECF (2016b).

“It is true that many small vessels in the UK are suffering from low quotas, but the UK has the second largest quota in the EU. Plus, on the whole, fishing profits in the UK are increasing and are higher than for any other EU member state. The minister omits to mention that it is entirely his responsibility to allocate more UK quota to small vessels over large.”⁹⁷

Keeping in mind that quota management is delivering successes, and that many of the problems with quota are issues with national policies, the UK should consider moving a couple more key stocks to quota management. One key candidate that we have proposed adding to quota management is seabass,⁹⁸ which is experiencing the sharpest decline in biomass of any species monitored by ICES.⁹⁹ To date quota management has largely been avoided as France is another large fisher of bass and is keen to set a favourable reference period, different from one favoured by the UK.

Could, or should, the UK seek to renegotiate the relative stability key?

Despite the relative success of quota management (6b) and the need to keep a formal structure to quota negotiations (6a), using Brexit as an opportunity to revisit relative stability could be beneficial.

The failure of relative stability to reflect either the current fishing patterns of EU Member States or the changing biological patterns of fish stocks has long been a complaint of many EU Member States. Industry analysts in Ireland have pointed to relative stability as top of their list for reform.

To date, revisiting relative stability shares has been resisted as it is seen as opening Pandora’s box, diverting time and resources at a time when MSY and discarding is front and centre of fishery reform. Ensuring that Brexit delivers improved fishing opportunities for UK fishers may be the final straw when considered in the context of changing economic dynamics, climatic shifts northward, changes to target stocks by different industries, and the pressures of the landing obligation in a mixed fishery.

Potential gains in relative stability should be targeting at key UK fisheries (cod, haddock) as well as stocks that are of special interest to the UK small-scale fleet (stocks in the English Channel), as supporting the small-scale fleet is a priority of the UK government¹⁰⁰ and more quota for this fleet was in every political party’s manifesto in the last General Election.¹⁰¹

⁹⁷ Appleby, T., Benyon, R., Bradshaw, B., Esteban, A., Fanshawe, S., Forster, R., Luk, S., O’Leary, B., Rosello, M., Sauven, J., Stewart, B., Webb, T., Wood, H. British fishermen and their future in the EU. *The Times*, 6 May 2016. Retrieved from: <http://www.thetimes.co.uk/article/british-fishermen-and-their-future-in-the-eu-hp5wxx3x2>

⁹⁸ Williams, C. & Carpenter, G. (2015). *Restoring EU bass (Dicentrarchus labrax) stocks*. London: New Economics Foundation. Retrieved from: http://b.3cdn.net/nefoundation/9e98a3d20e2b904409_wlm6bslpl.pdf

⁹⁹ International Council for the Exploration of the Sea. (2016). *Stock assessment graphs: bss-47*. Copenhagen: International Council for the Exploration of the Sea. Retrieved from: <http://standardgraphs.ices.dk/ViewCharts.aspx?key=7748>

¹⁰⁰ Defra. (2011). *Fisheries 2027: a long-term vision for sustainable fisheries*. London: Department for Environment, food & Rural Affairs. Retrieved from: <https://www.gov.uk/government/publications/fisheries-2027-a-long-term-vision-for-sustainable-fisheries>

¹⁰¹ Carpenter, G. (2015). Party manifestos answer our call on fishing quotas. *New Economics Foundation*, 23 April 2015. Retrieved from: <http://www.neweconomics.org/blog/entry/party-manifestos-answer-our-call-on-fishing-quotas>

What opportunities and constraints will affect the UK's ability to achieve its priorities and objectives in negotiations about a future EU-UK relationship regarding fisheries?

The main opportunity for the UK is that fishing is on the agenda. For the Leave campaign, the plight of UK fishers became a face of the campaign as a good representation of the problems with the EU. While NEF has produced fact checks that called into question some of the claims made by the campaign,¹⁰² there is little doubt that fishing captured the national attention and this opportunity for change should be seized.

Some commentators have discussed a 200nm ban on foreign trawlers – and this has focused the attention of the industry in other EU countries as well. Concerns from other EU members that the UK is playing a strong hand on this particular issue could be used as opportunity for the UK to achieve its objectives in EU-UK negotiations.

There are a number of constraints to the UK's ability to negotiate on fisheries, many of which have already been highlighted.

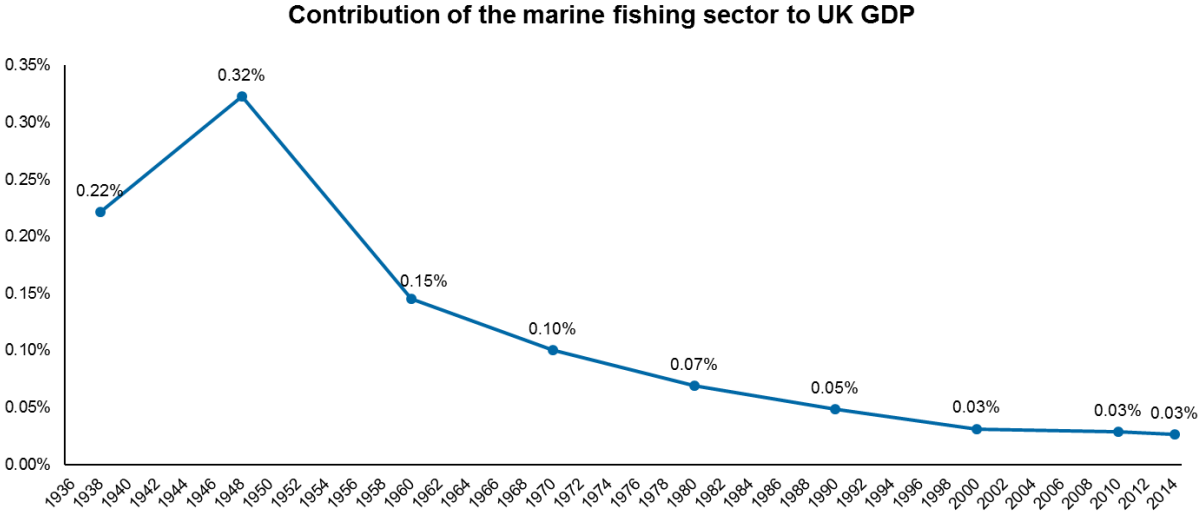
- The UK will be keen to avoid any sort of tariff on UK fish and fish products given the dominance of the EU market to UK fishers.
- While it is tempting to become an Iceland and manage fisheries independently, the UK is not geographically isolated from a marine perspective and nearly every single key species is shared with EU Members.
- Scotland holds over half of UK waters and given the outcome of the Brexit vote is likely to be in favour of keeping strong connections to the EU.
- Much of the opposition to EU management in the fishing industry comes from the phasing in of the discard ban and transition to MSY. Come 2020, the industry may be very different and have a different view, so the speed at which Brexit can be delivered is a significant constraint.
- The ability for the UK's government departments to manage fisheries as a new competency as Defra has had the largest budget cut of any department (57% in real terms over two parliaments)¹⁰³ and fishing policy that the MMO already controls have been deteriorated, such as a fall in the number of fishing inspections.¹⁰⁴
- It is important to note that as the fishing industry is less than half of one per cent of UK GDP [**On 10 July 2017 Mr Carpenter informed the Committee that his evidence, instead of giving a figure of “less than half of one per cent of UK GDP”, should have stated: “less than half of one tenth of a percent of UK GDP”**] and that share has declined since the UK entered the

¹⁰² Carpenter, G. (2016). Flotilla factcheck: the EU's impact on UK fisheries. *New Economics Foundation*, 20 June 2016. Retrieved from: <http://www.neweconomics.org/blog/entry/factcheck-the-eus-impact-on-uk-fisheries>

¹⁰³ Howard, E. (2015). Defra hit by largest budget cuts of any UK government department, analysis shows. *The Guardian*, 11 November 2015. Retrieved from: <https://www.theguardian.com/environment/2015/nov/11/defra-hit-by-largest-budget-cuts-of-any-uk-government-department-analysis-shows>

¹⁰⁴ Carrington, D. (2016). Action against illegal fishing falls after cuts at enforcement agency. *The Guardian*, 30 May 2016. Retrieved from: <https://www.theguardian.com/environment/2016/may/30/action-against-illegal-fishing-falls-after-cuts-at-enforcement-agency>

EU.¹⁰⁵ While it has gained some national focus during the referendum campaign, it is unlikely to be the focus of Brexit negotiations.



Sources: MMO - UK Sea Fisheries Stastics 2014; BoE - Three centuries of macroeconomic data; BoE - Inflation calculator



What obligations to co-operate on fisheries management exist under international law?

How will this affect the UK’s ability to restrict access for foreign vessels to the UK?

The main obligation that the UK must co-operate on, no matter the outcome, is the United Nations Convention on the Law of the Sea (UNCLOS). Under this convention of international law, there are a number of agreements that will impact fish stock management. In particular the 1995 United Nations Fish Stocks Agreement that states how highly migratory fish stocks that straddle country borders, should be handled by multiple countries.

Article 62(3) of UNCLOS holds that a state must minimise economic dislocation in states whose nationals have habitually fished in the zone and which have made substantial efforts in research and identification of stocks. This is something that EU countries will no doubt claim and is likely to pose a challenge to any attempt by the UK to restrict access for foreign vessels to the UK.

Andrew Oliver of Andrew Jackson Solicitors writes that “While the obvious starting point is UK waters for UK vessels, such a position would be politically untenable and potentially in breach of UNCLOS and, therefore, access rights would have to be negotiated, both in respect of EU member state vessels in UK waters as well as UK vessels in EU waters.”¹⁰⁶

¹⁰⁵ NEF calculations from Marine Management Organisation. (2015). UK Sea Fisheries Annual Statistics Report 2014. Marine Management Organisation. Retrieved from: <https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2014> and Bank of England GDP and inflation data.

¹⁰⁶ *Op cit.* Oliver (2016).

To what extent will historical access rights affect the ability to restrict foreign vessels from accessing UK waters, or other countries' ability to restrict UK access to their waters?

There is a common misconception that taking fisheries back before the EU means no foreign vessels in UK waters. In reality, this could hardly be further from the truth as there was a great deal of foreign fishing in the British waters before the CFP, some dating back to the Middle Ages.¹⁰⁷ There is no significant period in which the UK fished exclusively its 200nm waters.

Professor Richard Barnes and Mercedes Rosello, researchers of fisheries law at the University of Hull have explained that “Under international law, coastal states are stewards, not owners, of their exclusive economic zone, and obliged to cooperate in fisheries management. This may entail allowing foreign fleets access to fish stocks in coastal waters.” The authors conclude that “In our view, Brexit is unlikely to produce a radical revolution in fishing regulation and allocation. At least in the short to medium term.”¹⁰⁸

Will the UK be able to restrict access for vessels that are UK based, though owned by an EU company before and after Brexit?

While 6b explained the complicated situation with respect to foreign vessels, this is further complicated by vessels that are foreign-owned (mostly Dutch and Spanish) but are UK-flagged – a practice known as “quota hopping”. These vessels are for all intents and purpose “British” and thus Brexit will not change their access to UK waters.

This is a large misconception. Many in the public will have read about a Dutch trawler, the Cornelis Vrolijk, that holds a quarter of English quota, and on that description alone, will expect Brexit to drastically change that practice – in reality it will not. We have compared the situation with expecting Brexit to kick foreign-owned teams out of the English Premier League.¹⁰⁹

However the UK is not powerless to ensure that UK quota delivers benefits to the UK itself. The “economic link” is a UK government policy that sets conditions on what holders of UK quota must do, and this policy applies both before and after Brexit. Currently the economic link states that a holder of UK quota must do one of the following:

- land at least 50 per cent of the vessel's catch in the UK of stocks subject to EC quotas
- employ a crew, of whom at least half are resident in a UK coastal area
- incur a certain level of expenditure on goods and services, provided in UK coastal areas.

These conditions could be made more stringent if there is an issue with foreign-owned vessels not contributing sufficiently to the UK.

¹⁰⁷ <http://www.eureferendum.com/documents/fishinggreenpaper.pdf>

¹⁰⁸ Barnes, R. & Rosello, M. (2016) Does Brexit mean plain sailing for UK fishermen...or stormy waters? *The Conversation*, 1 July 2016. Retrieved from: <https://theconversation.com/does-brexit-mean-plain-sailing-for-uk-fishermen-or-stormy-waters-61784>

¹⁰⁹ LSE blog

There is one aspect of foreign-owned vessels that could change post-Brexit. In 1988 the UK government tried to clamp down on ‘slipper skippers’ by imposing a requirement that UK quota (Merchant Shipping Act 1988) was held by UK nationals. This requirement was challenged and resulted in the much discussed court case of *R (Factortame Ltd) v Secretary of State for Transport*. The European Court of Justice ruled that the requirement that vessels had to be UK-owned was discriminatory and damages to the Spanish-owned trawlers were awarded.¹¹⁰

Some commentators would like to revisit this issue in a Brexit scenario outside of the EU, and impose a requirement of British ownership. Although it is unclear why a nationality requirement, which would still be highly discriminatory against migrants, is preferable to tightening the existing economic link.

What type of relationship with the EU and neighbouring countries would be preferable for securing effective regional management and co-operation?

With whom should the UK seek to establish bilateral relationships?

In a Brexit scenario where the UK exits the EU, the UK should seek bilateral relationships with third countries that share fishing grounds (Norway, Iceland, Faroes) and the EU itself.

What type of governance framework could the UK pursue?

From the evidence reviewed in this document it is clear that a governance framework as close to the EU as possible is ideal for UK fisheries. Regardless of the framework, it is worth mentioning that stability and transferability are two key principles for a framework to work well.

For example, on the issue of quota shares it is likely that relative stability within the EU has been too fixed over time, but that a situation where there are no commonly agreed shares (as is the case with third countries) results in a chaotic and unsustainable quota-setting process.

A structure that could ensure the stability of say, five-year relative stability agreements, and the transferability of quota swaps between the UK and the EU throughout the year would be delivering well. Currently no third country outside of the EU has a structure that allows for either of these quota characteristics.

What approach to dispute resolution could be desirable?

Unable to make informed comment.

Which regional organisations, advisory bodies and scientific communities should the UK prioritise access to?

Once the UK leaves the EU, could it uphold its membership of such organisations?

There are a number of regional fisheries organisations that will be relevant, depending on the relevant species. For example, the North East Atlantic Fisheries Commission (NEAFC) will impact many of the relevant Northern pelagic species and is underpinned by UNCLOS and the 1995 Fish Agreement. It is likely that in a Brexit scenario where the UK exits the

¹¹⁰ Dyer, C. (1999). UK loses £100m fishery case to Spanish. *The Guardian*, 29 October 1999. Retrieved from: <https://www.theguardian.com/uk/1999/oct/29/claredyer1>

EU, the UK would then sign up as a member of NEAFC alongside Denmark (including Faroe Islands and Greenland), Iceland, Norway, the Russian Federation and the European Union.

Some analysts have expressed scepticism at the ease in which the UK could join NEAFC with the same conditions as the EU currently enjoys. In their blog on the legalities of Brexit, Professor Richard Barnes and Mercedes Rosello write that:

“The UK will need to secure membership in order to benefit from quota allocations of valuable fish such as mackerel. Yet it seems unlikely that the UK could simply continue on the same terms as its EU membership, and admitting new states is a headache as existing members want to maintain their own quotas.”

More complicated is the UK’s relationship with ICES advice. Currently the EU funds ICES to produce scientific assessment and advice for fish stocks of relevance to the EU. It is possible that outside of the EU, the UK could ignore its responsibility to co-operate on this front.

The Regional Advisory Councils were set up as EU bodies and as such the UK would be unable to sit on these Councils post-Brexit. As the UK is a key member of many of these Advisory Councils, there have been suggestions that post-Brexit “super RACs” could be formed that include all countries in a region regardless of whether they are members of the EU.

What type of relationship with the EU would best suit the UK’s interests?

Given the evidence discussed throughout this document, it is clear that shared UK fish stocks benefit from shared management, and this implies a close relationship with the EU. At a practical level, given the constraint on resources for negotiations and for management post-Brexit, it would seem best to remain part of the EU’s Common Fisheries Policy and work for some of the changes identified like revisiting relative stability, adding transparency to quota negotiations, and ensuring harmonisation in the enforcement of EU regulations on fisheries.

What could the UK learn from the fisheries relationships between the EU and the Faroe Islands, Greenland, Iceland and Norway?

What do these examples tell us of the UK’s future ability to restrict access to UK waters while trading with the EU?

Greenland is an especially interesting example of managing fisheries outside of the EU. Fishing was the major issue on the table over Greenland’s exit, and even still negotiations took two years to complete. This is a cautionary tale for opening up negotiations and expecting a quick result. The danger is that uncertainty might turn investment and trade away from UK fisheries. As former fishery ministers Richard Benyon and Ben Bradshaw noted in their open letter, leaving the EU “would send us back to the drawing board, and the likelihood is that the environment (and fishermen’s livelihoods) would suffer during years of bureaucratic wrangling.”¹¹¹

Another important lesson from Greenland’s exit is that even with fisheries being the most important issue for the Greenland delegation, access rights for EU vessels were still conceded.

¹¹¹ *Op cit.* Appleby et al. (2016).

The discussion of access rights for foreign vessels (6b) is in part confirmed through the examples of third countries, Norway in particular, where the EU negotiated a bilateral fisheries agreement where the EU and Norway gave each other reciprocal access to their waters in order that the previous fishing pattern should not be disrupted too severely by the introduction of 200-mile limits.¹¹²

After the Brexit vote, Audun Maraak, managing director of the Norwegian Fishing Vessel Owners' Association (Fiskebaat) warned that "I think it is unrealistic of the British to believe they will receive larger quotas than those they had as a member of the EU."¹¹³

What do these examples tell us of ways to achieve MSY and regional management?

The examples of third countries like the Faroe Islands, Greenland, Iceland and Norway tell us conflicting things about MSY and fisheries management. While in broad terms these countries have achieved better health for their fish stocks, a distinction must be made between largely exclusive fish stocks that are a model of sustainable management, and shared fish stocks, which are not. Due to these countries being outside of the EU, relative shares are still debated and quota negotiations frequently breakdown and/or are set much above scientific advice. Unfortunately, nearly all of the UK's commercial fish stocks are shared and so these more negative lessons are the most relevant.

It should also be noted that while many of these third countries enjoy more sustainable waters than the EU, those critical of EU fisheries management often fail to point out that they also endured reductions in fishing capacity, vessels, ports and jobs that the EU is currently experiencing.

What do these examples tells us about how to influence EU fisheries policy from outside the CFP?

These third countries have had little influence on EU policy outside of the EU. Norway has had a ban on discarding in place for many years but was unable to get the EU on board, even for shared stocks. It was only recently through a UK-led campaign that the EU Common Fisheries Policy included the phasing out of discards.

These countries have also struggled to remove tariffs. Norway, which has the closest arrangement with the EU, pays tariffs on 70% of its fish sent abroad, totalling 1bn Norwegian kroner (£91.5 million) a year to the EU.¹¹⁴ Kristin Alnes of the Norwegian Seafood Federation concluded that "The lack of free trade with the EU is very difficult for us and has been a problematic area for years. Our fish become more expensive and our exporters have less income" and that despite public opinion in Norway, full EU membership "would be the best solution".¹¹⁵

Due to the UK's geographical proximity and how the fishing fleet has evolved together with the EU, this interdependency point is hugely important. As Professor Michael Kaiser from

¹¹² *Op cit.* Oliver (2016).

¹¹³ Jensen, T. (2016). Norway to UK: Don't expect better quota deal post-Brexit. *Intrafish*, 1 July 2016. Retrieved from: <http://www.intrafish.com/fisheries/767046/norway-to-uk-dont-expect-better-quota-deal-post-brexit>

¹¹⁴ Young, R. (2016). How Norway's relationship with the EU has split views. *BBC News*, 15 June 2016. Retrieved from: <http://www.bbc.co.uk/news/business-36527069>

¹¹⁵ *Op cit.* Young (2016).

Bangor University explains, “what the French fleet does affects the UK, whether we’re in the EU or not. Once we’re out, our ability to affect other countries is very limited.”¹¹⁶

2 September 2016

¹¹⁶ Owens, B. (2016). Brexit vote will likely cause problems for UK fishers. *Hakai magazine*, 29 June 2016. Retrieved from: <https://www.hakaimagazine.com/article-short/brexit-vote-will-likely-cause-problems-uk-fishers>

Seafood Industry Alliance — Written Evidence (FBR0008)

Executive Summary

- The UK Seafood Industry Alliance represents processors and traders, who are the largest value generators, the largest employers and the most innovative UK fisheries sector.
- We play a key role in providing consumers with affordable, sustainable and healthy food of high nutritional value, contributing directly to efforts to improve the nation's diet.
- We have pioneered work to promote responsible sourcing and improve fisheries management throughout our supply chains, including through the use of independently verified certification schemes ensuring compliance with best scientific conservation advice and traceability.
- A future relationship with the EU must maintain existing market access and our ability to import zero or reduced tariff supplies from both EU and non-EU countries, including the current system of Autonomous Tariff Quotas (ATQs).
- It must also avoid jeopardising the major gains that have been made in recent years in EU and international fisheries management and provide a sound basis for future collaboration in protecting and enhancing a vital, renewable, natural resource that will become even more important in terms of our own and global food security in years to come.

Introduction

This submission is made on behalf of the UK Seafood Industry Alliance - a joint creation of the Food and Drink Federation (FDF) and the Provision Trade Federation (PTF) to strengthen and expand representation of UK seafood processors and traders in response to the challenges of determining the best possible future framework for the industry in the context of the vote to leave the EU.

The Alliance is designed to provide a clear and united voice for members of both organisations, who between them account for around 80% of the UK market.

In addition to work in connection with UK withdrawal from the EU, the Alliance will engage on the full range of issues related to supplying consumers with secure, affordable, nutritious and sustainable fishery products at a time of unprecedented uncertainty and change.

The importance of the UK fish processing sector

The UK has the third largest fish processing sector in the EU. It directly employs some 14,305 people, compared to 9,772 full time and 2,073 part time workers in the catching sector. In common with other food businesses, seafood companies employ many non-UK nationals and need continuing access to such labour and skills. Turnover in 2014 was £4.2 billion, compared to a value of UK landings of £868 million in the same year (<http://www.seafish.org/research-economics/industry-economics/processing-sector-statistics>).

However, as is the case elsewhere in the EU, the UK is critically dependent on imports from third countries (principally Norway, Iceland, USA, Russia, Canada) to meet demand. As set out in the annual Finfish Study produced by our counterpart European trade association (AIPCE-CEP), the EU as a whole is only about 40% self-sufficient in fish.

http://www.aipce-cep.org/sites/default/files/201510/FinFish%20Study%202015_0.pdf. For major whitefish species (for example cod) non-EU imports account for around 90% of total supply. Many essential products could not exist without such imports. In broad terms, total EU whitefish catches (TACs) are around 400,000 tonnes, as compared to imports of approximately 2,500,000 tonnes. This is a simple reflection of the lack of capacity of stocks in European waters to meet consumer demand in terms of both volume and variety of products. Even on the most optimistic assumptions about stock recovery or future UK quota shares, there will still be a substantial shortfall in terms of current market needs. Higher consumption, in line with public health advice, would exacerbate this. Such levels of imports are not, however, a new phenomenon, as Europe's distant water fleets have always fished in what are now other countries' waters (e.g. Iceland).

In recognition of this, the EU operates a triennial system of Autonomous Tariff Quotas (ATQs) which allow specified quantities of key species to enter the EU at reduced (or in some cases zero) rates of duty. The UK is a major current beneficiary of this system.

It is also relevant that a majority of UK caught fish - up to 80% in some years - is currently sold for export (mainly to other EU countries) and does not enter the UK market. There are many reasons for this, but it is principally a function of the species in question (pelagic, shellfish etc) not meeting UK tastes, despite many efforts to promote more diverse patterns of consumption. These include efforts by processors to innovate in the use of under-utilised species and to develop more consumer friendly, ready to eat, fish products.

The importance and extent of trade - primarily from non-EU sources - is a distinguishing feature of the fisheries sector, adding to what in other respects is already an extremely complex set of issues – which cover sovereignty in respect of access to waters, sustainability in relation to the management of fish stocks and the wider marine environment, and the allocation of fishing rights.

Responses to specific questions

Question 1. Which are the most urgent priorities for the UK's negotiations with the EU on a future relationship with the EU regarding fisheries and why?

The history of the UK's existing relationship with the EU on fisheries has not been straightforward. Much of this has to do with decisions taken by the then 6 founding Member States, in anticipation of UK accession, to adopt the principle of "equal access" to each others' waters, theoretically allowing fishing "up to the beaches".

For candidate countries such as the UK and Norway, with extensive coastal fishery resources, this was extremely significant - and was arguably the reason for Norway rejecting accession in a referendum in 1972. The issue of access to waters became even more acute in 1976 when Member States, including the UK, followed practice elsewhere under the UN Convention on the Law of the Sea (UNCLOS) and extended their fishing limits from 12 to 200 miles, creating the current "common pond".

A further decision, by the European Court of Justice in 1981 (ECJ case 804/79), ruled that the EU had exclusive competence for fisheries conservation measures in Member State waters. This then became the basis of the current Common Fisheries Policy (CFP) which was finally enacted in 1983. However the provisions on access to waters under the CFP (0-6 mile exclusivity and historic fishing rights from 6-12 miles) are still technically a derogation from the principle of equal access and subject to renewal every 10 years, including at the last CFP reform in 2013.

Clarifying the legal position on access to waters and competence in respect of the management of shared stocks as and when the UK leaves the CFP will therefore be critical to the negotiations as a whole, not least because of the potential repercussions for almost all other areas of fisheries policy, as evidenced by many of the Sub-Committee's more detailed questions.

Whatever the outcome on these central issues, a fundamental priority for both sides has to be the sustainable management and exploitation of wild capture fish stocks, which constitute a unique, invaluable, renewable, low carbon source of healthy protein, and one which will become increasingly important for future food security as land-based food production comes under ever greater pressure from resource constraints and the impacts of climate change. The marine environment itself is not immune from climate change impacts, so it will be equally important to ensure that any future arrangements maintain or enhance an integrated approach to the management of marine ecosystems in general.

From a more specifically commercial perspective, it will be essential to do everything possible to build on consumer confidence in sustainable and responsible fisheries management. The CFP suffered many years of reputational damage as a result of political compromises over scientific advice, deficient or poorly implemented conservation measures and insufficiently rigorous fishery agreements with third countries. The progress made in recent years must not be put in jeopardy by inability to reach agreement or to enforce whatever new arrangements are put in place.

a. What should the UK aim to achieve from this negotiation?

The diversity of industry, regional and stakeholder interests may make it difficult to agree on a single set of UK aims. From the Alliance perspective, we are clear that continued access to imported supplies at competitive prices, from both EU and non-EU sources, will be one of our primary aims. Fish is one of the most widely traded of all foods and effective international cooperation is essential to combat illegal or poor practice across the entire value chain. UK companies have been instrumental in driving up standards in the EU and beyond, having helped pioneer existing legislation on Illegal, Unreported and Unregulated (IUU) fisheries and many regional and other fishery improvement projects (FIPs) around the world. We are also leading players in efforts to improve traceability and eliminate fraud. It will be crucial that future frameworks provide for effective continuation and development of these efforts. The UK has the potential to play an even more important role in future and we would not want to emerge from the negotiation process as a diminished or less influential partner in these multi-lateral endeavours.

Question 2. Is it in the UK's interest to restrict access to UK waters for foreign vessels?

16. As far as UK waters are concerned – and on the assumption that these are defined as being within a new 200 mile EEZ – the UK's main interest must be to ensure the most effective and sustainable fishery management arrangements. These will need to take account of future catching opportunities for all concerned, which will clearly be a matter for negotiation as part of the withdrawal process.

a. What impact could that have on reciprocal access rights and UK fishermen?

Because of the principle of equal access, the only rights currently enjoyed by UK fishermen in other Member States waters are historic rights in their 6 -12 mile zones. In general these are less extensive and less valuable than those of other Member States in the UK's 6 -12 mile zone, not least because the UK has a much larger coastline. If the UK sought to exclude foreign vessels from a new 200 mile UK EEZ, reciprocal action by the EU in respect of their common 200 mile EEZ is similarly likely to have less relative impact. Such asymmetry is likely to result in a difficult and contested set of negotiations.

b. Which UK and non-UK Exclusive Economic Zones (EEZs) are most important to the UK fishing industry and which should the UK prioritise continued access to?

Assuming the UK asserted its right to its own 200 mile EEZ on leaving the EU, it would then be in a position to negotiate access agreements both to the remaining waters under EU control and to those of other countries such as Norway and Iceland. Current fishing opportunities would seem to be an obvious starting point for this. But having a much larger area of sea under UK control could open up many other possibilities. In order to generate maximum value from future UK catches, it will be important for both processors and retailers to be involved in any consultation process on priorities.

Question 3. Should the UK seek to preserve access to free trade in fish?

Undoubtedly yes. The UK is a large deficit market and needs substantial levels of imports to meet consumer demand. Fish is also in competition with other proteins, so price rises associated with higher tariffs risk reducing market share - and the potential health benefits of eating fish, for which consumption remains below recommended levels. But most imports come from third countries outside the EU. The terms on which these enter will depend on the UK's future status in respect of existing EU external trade agreements, or its ability to negotiate new bilateral trade deals of its own, rather than on continued access to the EU Single Market itself. These would need to be at least equivalent to terms available under the EU's existing Autonomous Tariff Quota (ATQ) system. The EU is however an important market for the majority of UK caught fish. Continued free trade with the EU will be important for the catching sector and for those UK processors who export in addition to supplying the domestic market.

a. What trade-offs would likely be necessary in order to preserve access to free trade in fish and seafood?

We believe that current free trade arrangements benefit both sides. The fact that the EU as a whole is such a large deficit market puts fisheries in a different category from many other sectors. We would not want to suggest any trade-offs, either in respect of maintaining

access at competitive prices to the supplies we need, or in respect of our ability to recruit the labour and skills we need to continue supplying consumers with affordable and nutritious fishery products, which we believe should be a negotiating priority in its own right. Leaving the EU would also create a completely new situation under international law in respect of fishing rights and quota shares for other EU Member States. Those issues need to be dealt with on their own merits.

Question 4. What approach to achieving Maximum Sustainable Yield (MSY) and sustainable fisheries would be in the UK's best interest outside of the CFP?

The UK - with the full support of processors and traders - has been a strong advocate of scientifically based conservation policies, predicated on achieving MSY as quickly as practicable in relation to the stocks concerned. There are however political and other judgments as to the pace at which this can be achieved. The extent to which we may have more freedom to accelerate or otherwise modify this approach will depend on the overall framework for future cooperation on fisheries management. But, for the reasons already explained, the Alliance regards responsible and sustainable sourcing as a paramount concern. In that context it will also be important to ensure continuity in independent certification arrangements, such as those operated by the Marine Stewardship Council (MSC), which are currently largely assessed against CFP management practices.

a. Should the UK continue to co-ordinate Total Allowable Catches (TACs) and quotas with the EU and neighbouring countries?

For shared stocks, some kind of joint management is both indispensable and a requirement of international law. The dynamic of such arrangements could however be fundamentally changed by whatever is decided on a 200 mile UK EEZ, continuation of historic rights of access to waters and quotas, and what happens to existing UK quota shares once the UK leaves the EU. Depending on those decisions, the UK could become a party to future discussions in its own right, as Norway is now, negotiating bilaterally with the EU on the one hand and through Regional Fishery Management Organisations (RFMOs) such as the North East Atlantic Fisheries Commission (NEAFC) in respect of other shared stocks.

b. To what extent should the UK preserve current TACs and quotas?

See above

c. Could, or should, the UK seek to renegotiate the relative stability key?

Relative stability was a political construct designed to achieve a mutually acceptable means of allocating resources in order to avoid the need for continual renegotiation of respective quota shares from year to year. A percentage based allocation key was determined with reference to historic catches by different Member States (track record) in the period prior to the establishment of the CFP in 1982/83. Special provision (known as "Hague Preference") was made to allow enhanced shares in specific cases where this was agreed as necessary to protect communities particularly dependent on fishing. But such exceptions only apply when the relevant TAC falls below a certain level.

The entire concept of relative stability was much disputed at the time - and the difficulty of agreeing changes is largely the reason for its longevity, despite many perceived imperfections. Relative stability is also arguably responsible for past decisions to over-ride scientific advice

on TAC levels. This is because inflating the total amount for all was deemed preferable as a means of meeting individual minimum (economic) catch requirements, as compared to simply altering percentage shares (other than in the limited cases qualifying for Hague Preference). Some small flexibilities were subsequently introduced in the form of approved quota swaps. But these have always been seen as temporary and not conferring permanent rights.

There was an attempt to introduce individual transferable quotas (ITQs) as part of the last CFP reform. But this proved politically impossible. So relative stability has remained an inviolable pillar of the CFP throughout its history.

Declaration of a UK 200 mile EEZ would however fundamentally alter the assumptions on which the current allocation key was based. In addition both fish population distributions and fishing fleet sizes and catching capacities have changed significantly since the reference data were collected in the 10 years before the CFP was agreed. It is therefore difficult to see how renegotiation could be avoided, even if the basic TAC and quota system were retained. It would however extremely challenging and contentious for all concerned.

Question 5. What opportunities and constraints will affect the UK's ability to achieve its priorities and objectives in negotiations about a future EU-UK relationship regarding fisheries?

It is generally held that the UK made concessions on fisheries in its accession negotiations in order to secure the bigger prize of joining the EU. In the present situation, there is not an option of the EU refusing to let the UK leave if agreement cannot be reached. This could be seen as strengthening the UK's negotiating hand, particularly if the default position is a reversion to a 200 mile UK EEZ with no automatic access rights for EU Member States. Superficially advantageous as this may be, the reality is that a breakdown in negotiations would carry a high risk of jeopardising good fisheries management - and could lead to major issues of enforcement over new access or catch limits. Both sides therefore bear a significant burden of responsibility to agree arrangements which protect both the substance and reputation of good fisheries management, including in the eyes of UK and EU consumers as well as of other stakeholders and the global fishing community.

Question 6. What obligations to co-operate on fisheries management exist under international law?

These are set out in the UN Convention on the Law of the Sea, the Agreement on Straddling Fish Stocks and Highly Migratory Species and a range of other Regional agreements.

How will this affect the UK's ability to restrict access for foreign vessels to the UK?

Cooperation on fisheries management does not necessarily require agreement on access to waters. It would in theory be possible to designate so-called "no take zones" where all fishing would be prohibited in order to conserve stocks - indeed this is a strategy which is sometimes advocated as potentially more effective than catch quotas.

To what extent will historical access rights affect the ability to restrict foreign vessels from accessing UK waters, or other countries' ability to restrict UK access to their waters?

There is genuine uncertainty over this at the moment. Ultimately it may require an international legal ruling.

Will the UK be able to restrict access for vessels that are UK based, though owned by an EU company before and after Brexit?

There is a substantial history of litigation on this issue, notably the so-called Factortame case (213/89) which successfully challenged provisions of the UK Merchant Shipping Act 1988 designed to impose nationality requirements on vessels seeking to fish against UK quota. These were held to infringe the right of free establishment in what are now Articles 49 to 55 TFEU. This issue is therefore likely to feature in wider discussions of the “four freedoms” associated with the Single Market.

Question 7. What type of relationship with the EU and neighbouring countries would be preferable for securing effective regional management and co-operation?

Given the provisions of international law referred to at Question 6 above - and the moral imperative of acting together to preserve a vulnerable common natural resource - it is not clear that any formal relationships would be required. But it would be possible to envisage one or more regional management agreements to provide a framework for this.

With whom should the UK seek to establish bilateral relationships?

The obvious starting point would be with any country or countries with shared stocks.

What type of governance framework could the UK pursue?

35. This would clearly depend on other decisions in respect of the UK’s future relationship with the EU, including potential agreement on future fisheries management arrangements.

What approach to dispute resolution could be desirable?

See above

Question 8. Which regional organisations, advisory bodies and scientific communities should the UK prioritise access to?

There is no obvious reason why the UK would not want to continue relations with all relevant bodies, in particular the International Council for the Exploration of the Seas (ICES) who provide the data on which most fishery management decisions are taken, by both EU and non-EU countries. The position in respect of bodies such as the Regional or other Advisory Councils constituted under the CFP would need to be considered as part of negotiations on future arrangements.

Once the UK leaves the EU, could it uphold its membership of such organisations?

This will depend on the statutes of the bodies concerned. Where possible the UK should seek to remain or join as a full contracting party. In other cases it may be possible for the UK to have observer status if it is no longer qualified to participate as a member of the EU.

Question 9. What type of relationship with the EU would best suit the UK's interests?

From an Alliance and consumer perspective, we need a relationship which will allow our sector to continue supplying affordable fishery products to consumers, here and elsewhere, and provide them with the nutritional and health benefits that fish can provide. We also need to ensure that these come from sustainably managed fisheries meeting the highest international standards.

Question 10. What could the UK learn from the fisheries relationships between the EU and the Faroe Islands, Greenland, Iceland and Norway?

Fisheries have a much greater relative economic importance for each of these four countries. This helps explain why retaining control of their own waters and resources has been one of their main reasons for not seeking full EU membership (or, in the case of Greenland, for leaving) despite the very large extent to which they rely on EU markets (including the UK) for their exports. The Common Fisheries Policy is also excluded from the scope of the European Economic Area (EEA) agreement with Iceland and Norway, and similarly from the dependent territory arrangements with Greenland and the Faroes, though all enjoy a range of concessionary trade provisions and there is some reciprocal access to waters. One lesson from this is that fisheries can give rise to sui generis arrangements outside other agreements.

What do these examples tell us of the UK's future ability to restrict access to UK waters while trading with the EU?

As indicated above, there are precedents for special arrangements in the fisheries sector. But these would clearly need to be expressly negotiated.

What do these examples tell us of ways to achieve MSY and regional management?

It is generally accepted that Iceland and Norway in particular have very effective internal fisheries management arrangements. But these involve significant resource costs, not least in terms of monitoring and enforcement. They also have the political will to prioritise conservation and adopt long term stock recovery strategies.

What do these examples tell us about how to influence EU fisheries policy from outside the CFP?

All these countries have reputations as hard negotiators who are prepared to "walk away" from deals that do not meet their requirements. In the case of the Faroes this recently resulted in EU imposed trade sanctions and measures to prevent Faroese vessels entering EU ports. How applicable these examples may be to future UK/EU relations remains to be seen.

7 September 2016

Dr Bryce Stewart — Supplementary Written Evidence (FBR0015)

Supplementary evidence from Dr Bryce Stewart, University of York, in response to the following follow-up question:

The Minister told the Committee that most EU catches are made in UK waters and the Committee is interested in understanding why that is.

The Committee heard, from yourself, that many fish stocks are in fact shared. That would suggest that at least some of the fish caught in the UK have at one point or another left the EEZ. The question that arises is then why are they caught in the UK EEZ? Do they remain here, could they not be caught elsewhere or is it because the stocks are of an optimal size or it is more economical to get to them while in UK waters?

In 2013 the EU fishing fleet (including the UK) landed 4.806 million tonnes of fish, 75% (3.604 million tonnes) of which came from the NE Atlantic (Eurostat 2015). According to a recent report (Napier 2016) an average of 1.120 million tonnes was landed by the EU fishing fleet (including the UK) from the UK EEZ each year between 2012 and 2014. This equates to 23.3% of the total EU catch and 31% of the EU catch in the North Atlantic in 2013. So in both cases considerably less than half of the EU catch was coming from the UK EEZ. The Napier (2016) report, did however, highlight some other interesting trends which some may use as an argument to increase the UK's share of fish quota.

Firstly, it suggested that non-UK EU boats caught 58% of the fish and shellfish taken from the UK EEZ (650 000 tonnes) ~ 43% by value (£400 million). In comparison, UK boats were calculated to have taken an average of 90 000 tonnes per year (£100 million by value) in EU waters outside the UK EEZ (i.e. not including fishing by UK boats in Norwegian or other waters). While these figures suggest an imbalance and were presented as a “bombshell”, this distribution of catches was already well known (Fernandes and Stewart 2015). There are several reasons why this new report should only be considered as part of the evidence when negotiating UK fisheries arrangements after Brexit.

The current distribution of quota shares (and therefore catches) among EU member states is based on historical agreements made in 1983 under the concept of relative stability. These agreements were based not only on the distribution of stocks, but also on fishing preferences of different countries at the time. For example, while the UK holds the majority of the EU mackerel quota (Fernandes and Stewart, 2015) other countries such as the Netherlands and Denmark land most of the herring, blue whiting and industrial fish species quota (Napier 2016). Boats and fishing practices (and indeed processing capability and markets) in each of the respective countries differ accordingly.

Landings statistics are just that – they only indicate where fish were landed from, not necessarily where they are at different times and in what abundance, especially at different life history stages. To obtain that information (which would be much more relevant to discussions about how quotas should be distributed) it would be more appropriate to examine fisheries independent (research survey) data, such as available through the

International Bottom Trawl Survey program. This is something my research team will be working on over the coming months. It is also crucial to know where fish spawn and the location of nursery areas – without these areas there would be no fish to catch in the commercial fishery in the first place. A report by Ellis et al (2012) illustrates this point well. For example, they found that in the North Sea and English Channel the majority of spawning and nursery grounds of plaice and sole are outside the UK EEZ (e.g. in French, Belgium and Dutch waters). Juvenile fish in those areas are too small to contribute to the commercial fishery at that time, but ultimately the wider commercial fishery relies on them. Those countries are likely to justifiably raise this point during any discussions about quota shares. Furthermore, as myself and others have pointed out (Stewart 2016), most of the fish species which are targeted by the fisheries currently managed by the EU are highly mobile and may cross through the waters of several different countries, even during a single year (Neat et al. 2014). Furthermore, the distribution and migration patterns of many of these stocks are altering with climate change (Trenkel 2014). This also needs to be factored into discussions about quota shares and a timetable for re-visiting arrangements (e.g. every 10 years) should also be agreed.

It is now well known that the UK fishing industry relies on its trading relationship with Europe. At present the UK exports approximately 80% of its wild caught seafood, with 66% going to Europe. For example, 4 of the top 5, and 7 of the top 10, export destinations for UK caught seafood are European countries (MMO, 2015). In contrast, the UK imports approximately 70% of the value of seafood consumed here, with over 70% of that (in terms of both volume and value) coming from non-European countries (Seafish, 2015). The top source countries include Iceland, China and Canada (Seafish, 2015). Maintaining this balance plays a key role in ensuring the UK's aquatic food security (Jennings et al., 2016). Therefore, any negotiations with EU countries over allocation of fish quotas for shared stocks, including access of EU vessels to fish in the UK EEZ, will need to consider the importance of maintaining access to export markets. Both Greenland (which left the EU) and Norway (which never joined) have allowed foreign fishing boats to access their EEZs in exchange for them being able to access EU markets.

The final point is that the report by Napier (2016) does not consider the UK's arrangements relative to other EU member states in the current bilateral agreements over fish stocks between the EU and Norway and through NEAFC. These arrangements will also need to be factored into Brexit negotiations.

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25 October 2016

Dr Bryce Stewart, Professor Richard Barnes and Professor Robin Churchill — Oral Evidence (QQ 1 – 11)

Dr Bryce Stewart, Professor Richard Barnes and Professor Robin Churchill — Oral Evidence (QQ 1 – 11)

[Transcript can be found under Professor Richard Barnes, Professor Robin Churchill and Dr Bryce Stewart — Oral Evidence \(QQ 1 – 11\)](#)

Sigurgeir Thorgeirsson, Geir Ervik and Vidar Landmark— Oral Evidence (QQ 22 – 31)

Sigurgeir Thorgeirsson, Geir Ervik and Vidar Landmark— Oral Evidence (QQ 22 – 31)

[Transcript can be found under Geir Ervik, Vidar Landmark and Sigurgeir Thorgeirsson — Oral Evidence \(QQ 22 – 31\)](#)

UKIP — Written Evidence (FBR0009)

Q1. Firstly, HMG must invoke Art. 50 as soon as possible. This will provide a two-year transitional period for reorganisation of the UK fisheries, with the establishment of a Fisheries Ministry. Clearly DEFRA will not be capable of undertaking this massive challenge. This new ministry must employ experienced Fisheries Advisors from the industry, who will be best qualified to assist and ensure that it maximises the advantages of this incredibly valuable national resource belonging to the British people. It also gives the CFP a two-year lifecycle, until it no longer applies. HMG must negotiate a friendly withdrawal in total from the CFP, without strings attached.

Q1a. In practical terms, the UK and HMG is firmly in the driving seat. It is for EU member states to negotiate with HMG, in close cooperation with the Fisheries Advisors, not visa versa.

Q2. Of course it is in UK's interests to gradually restrict access to foreign vessels, which will finally facilitate the proper conservation and management of our UK fish stocks, which is long overdue.

Q2a. Reciprocal access rights to EU member states waters are of little realistic value since EU waters beyond our own Exclusive Economic Zone (EEZ) contribute an insignificant amount to our UK total catch.

Q2b. Access to the entire UK EEZ two hundred nautical miles/median line is critical to our fishermen, their families, their communities, their support industries and most importantly our UK economy. The waters surrounding these islands enjoy one of the greatest diversity of species and volume of fish in the entire World. As stated above, access to EU controlled waters is of little practical value. However, there are significant opportunities for UK fishermen, if access can be negotiated to our traditional fishing areas controlled by Greenland, Iceland, Faroe Islands and Norway, some of whom have already made encouraging overtures.

Q3. Maintaining free trade in fish while potentially desirable, must not be the major driving influence in negotiations with EU member states.

Q3a. Possible "trade-offs" in order to preserve some free trade deals might include a four-year cooling off period to conclude by 31st Dec 2022 and/or possibly the closely controlled and monitored lease of licences for access. Sale of this national resource must never be permitted.

Q4. Obviously, achieving a maximum sustainable yield is of paramount concern, while our EU membership currently denies UK the right.

Q4a. TACs must be coordinated in cooperation with ICES. There is no conceivable purpose for the UK to coordinate quotas with the EU. Those areas outside our UK EEZ are to an extent not of our concern, unless overfishing in close proximity impacts upon our fish stocks. We shall not however accept any control mechanisms emanating from the EU.

Q4b. Negotiation of TACs under guidance from ICES is reasonable and EU quotas will cease. EU quotas have been the cause of the discards with consequential loss of livelihood and massive damage to our UK fish stocks. In waters of such diversity of species as ours,

quotas can never work. Effective management of fishing can be achieved by controlling days at sea, not quotas.

Q4c. Relative Stability Keys provide the system for EU quotas and will cease in UK waters.

Q5. Once out of the CFP, our UK fishermen will be subject to a new set of rules and the transition will take a few months, even a year in some cases. Given the right incentives by HMG, this will also see the re-establishment of traditional fishing communities and growth in the support industries. This subject must be considered very carefully, but for the UK and HM Treasury it will be very exciting. Initially, assistance in the form of relaxed legislation must be provided to the inshore and leisure fishing industry, including Recreational Sea Anglers(RSA), which generate significant employment opportunities and substantial income for our Exchequer.

Q6. The third United Nations Conference on the Law of the Sea (UNCLOS III) produced The United Nations Convention on the Law of the Sea (UNCLOS), which came into force in 1994 and which stipulates the responsibilities of nations and the ways that they use the World's oceans and manner in which they must protect this marine environment and manage this valuable resource. 167 countries and the European Union have signed up to this treaty.

Q6a. Once the CFP controls cease to apply, HMG's Fisheries Ministry will govern our EEZ in the same way as The Faroe Islands, Norway and our other non-EU neighbours under UNCLOS rules. Similarly, foreign vessels cannot be on a British Register.

Q6b. When the CFP ceases to apply, it is our understanding that the 1971 allocation in UK waters will also cease to apply, just as the UK's share out in member states waters will cease to apply.

Q6c. Under EU rules a foreign owned EU vessel may fish in our UK waters in accordance with current EU quotas and TACs. Without CFP controls, HMG's Fisheries Ministry will be free to control any foreign owned vessels (be they from the EU or elsewhere) wishing to fish in our EEZ waters in the same way that the Faroe Islands or Norway already controls foreign fishing vessels in its waters.

Q7. It is for the UK Government to manage our resources. We do not require a relationship with foreign countries or foreign organisations in order to achieve this.

Q7a. Judging from the response from our non-EU fishing neighbours, there is much to be gained by close cooperation with them.

Q7b. The chosen framework can be devised by mutual consent with our fishing partners.

Q7c. Dispute resolution can be subject to UNCLOS rules.

Q8. As the fifth largest economy in the World, the UK is quite capable of maintaining its relationship with a host of international advisory and scientific organisations.

Q9. The UK's best interests would be best served by a friendly, cooperative trading relationship with the EU, but without the hugely damaging and costly regulations emanating

from it. The UK is the EU's largest customer, but if certain countries refuse to trade sensibly with us, we can source our requirements elsewhere in the World.

Q10. As non-EU member states, The Faroe Islands, Greenland, Iceland and Norway are sovereign states in their right. As such they are free to control and protect their fishing grounds however they feel fit. As a member of this North Atlantic Fishing Group, the UK would play a crucial part in the management of this marine resource.

Q10a-c. The UK has nothing to learn from the EU management of fisheries, which has proved so damaging to fishing communities and fish stocks. In this context, HMG must concentrate its attentions to domestic affairs and not spend valuable time, effort and UK tax payers' money trying to influence EU fisheries policy.

2 September 2016

UK Government — Oral Evidence (QQ 32 – 41)

WEDNESDAY 14 SEPTEMBER 2016

12.00 pm

Witnesses: George Eustice MP

Members present

Lord Teverson (Chairman)
Lord Curry of Kirkharle
Viscount Hanworth
Lord Krebs
Lord Rooker
Lord Selkirk of Douglas
Baroness Sheehan
Lord Trees
Baroness Wilcox

Examination of Witness

George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Q22 The Chairman: Minister, can I welcome you to this sub-committee of the EU Committee? We are, as you know, looking at fisheries and the implications of our withdrawal from the European Union. This is the last of four sessions that we have had with panels of witnesses and we will be producing our report. The session is on the public record. We will be sending you a transcript and you and your officials can look at that to check whether we have properly transcribed that, and there is also a webcast here. Minister, perhaps you could briefly, for the public and those watching, explain your involvement in fisheries as Minister, and then we will move into the questions.

George Eustice: Yes. I am Minister of State in Defra with responsibilities for fisheries and have been now for just short of three years, so coming up to my fourth. This December will be my fourth December Council dealing with these issues.

The Chairman: Perhaps I can start off, but I must declare my own interest in that I am a board member of the Marine Management Organisation. Minister, what opportunities does Brexit hold for fisheries management and the fishing industry in the UK? What are your key

objectives for fisheries management after Brexit? Perhaps we could open with that rather general question.

George Eustice: I was always clear in the campaign that there are certain things that we would not change, that we would want to keep the same, even outside the European Union. One is targeting MSY fishing sustainably. One is we will still need to have some sort of quota system because you do need to regulate activity in fisheries. Thirdly, there will always need to be a degree of international agreement and international negotiation particularly when it comes to shared stocks.

That said, I think there are some real opportunities in leaving the European Union. One is an opportunity to regain our own independent seat at the table at certain negotiations which are important to us. I am thinking particularly of the North East Atlantic Fisheries Commission where the annual negotiations on species like mackerel take place, which is very important to us but where we currently are represented by the EU. There is an opportunity as well to expedite changes in technical measures where we deem them necessary, so it will be easier to change technical regulations where the evidence has changed or moved on. Often it can be quite frustrating to get change at a European level because of the time it takes. The involvement of many different institutions including the European Parliament can lead to quite slow progress to deliver quite simple changes. Finally, it is an opportunity as well, as I said before, to look properly at shares of allocations of TAC for certain species. Particularly in the channel and the west country, on some species, I think it is generally accepted that historically we have ended up with a disproportionately small share of a stock given that a great deal of it is caught in our waters.

The Chairman: Thank you very much for that. Obviously your responsibilities primarily are around the operation of fisheries, but there is the other side of the equation which is the seafood industry and its ability to import and export and we will come on to that later. Do you feel we have to find a balance in our negotiating stance somewhere? Is there a balance to be found, or is it a win-win or a lose-lose?

George Eustice: Obviously in the Brexit negotiations across government for all industries trade is an important thing to get right. It will not have escaped the attention of the Committee that the Government have not reached a final view yet about exactly what type of trading relationship we want with both Europe and the rest of the world; we are still doing the analysis on that. At one end of the spectrum there is the option of a free trade agreement perhaps closer to the EU-Canada free trade agreement, where you would have

more freedom to open up trade deals independently around the world and where you might be able to open trade with the rest of the world more quickly than we are able to through the EU. However, at the other end of the spectrum, there are advantages as well through the single market, particularly when it comes to country of origin rules and some manufacturing sectors. At the moment we have not decided where on that spectrum we think the future lies. It is a very complicated area as you will understand. I think it is very important we do the analysis correctly and set out our stall in the correct place when we commence negotiations.

The Chairman: Thank you.

Q23 Lord Curry of Kirkharle: Minister, as you know, until the end of last year I chaired the Better Regulation Executive, so I am interested in the regulatory process of exiting the European Union and how we synchronise the fact we will not be subject to the Common Fisheries Policy and will need to replace that with our own domestic regulation. There is a risk that these things may not be synchronised and we might reach a stage where we are in a regulatory vacuum. I am interested in what the department is doing to ensure that does not happen because this will be a critical process, not just on this subject but on every other aspect of Brexit.

George Eustice: Yes, and again, the precise government position is not yet settled. I am sorry, I will probably repeat that quite a bit during the course of this session. To explain what the options are, crucially what is absolutely clear is that we understand, when we leave the European Union and the exit formally takes place, we have to have in place our own national regulations on things like technical measures from day one. We cannot have, as you describe it, a vacuum or period of chaos when there is no regulation at all. That is not what we will do. There is a spectrum of options available. One would be to have, in the time we have, a fundamental look at the technical measures and look at where we would like to make changes, where we would like things to remain the same and try to roll forward the things we want to keep into a UK legal basis, and change the bits we want to change again on a UK basis. The alternative, at the other end of the spectrum, as someone said, is to nationalise the *acquis* in one bang and, over time, evolve that and refine it so it better suits our needs and deals with the challenges we have. There is a spectrum there of trying to be quite ambitious on the things we would like to change that we think it is sensible to change, or taking a more cautious approach that does not fetter our ability to deliver change in the

future but gives the opportunity to think things through carefully and refine some of the technical regulations over time.

Lord Curry of Kirkharle: I suspect the fishing industry will be looking for some changes to take place and would not be happy if we just adopted EU regulation and then tried to introduce the changes later.

George Eustice: It depends. There are some fishermen who will want to retain some of the features they are familiar with, and there will be voices in the fishing industry arguing for the retention of a similar basis of allocation of quotas to what we have now, for instance. Equally, for some vessels, some sectors, particularly if you think of the under-10s, many of them feel frustrated that a lot of the regulation that affects them feels overly onerous and overly complex given the amount of fish they catch. I think it will differ sector to sector. The crucial thing for us is if, as I intend, we remain committed to sustainable fisheries, we cannot have a vacuum and there is the question of what we change and at what speed we change it.

Q24 Baroness Wilcox: Good morning. I am delighted you are still in post because it means that you will continue with the negotiations and go to them in good heart because we are still yet within the European Community so it is important to us. I am from the West Country—you will know well the West Country fishery and the lobster hatchery at Padstow. The question I am going to ask you cannot answer directly; I understand that and we all understand that these are areas which are difficult for you to give us good straight answers on, but perhaps you could at least give us a hint as to whether you think this is good. Do you think the current frameworks for co-operating on fisheries which are in place between Norway and the European Union, Iceland and the European Union, or the Faroe Islands and the EU are suitable models for a future EU-UK relationship regarding fisheries?

George Eustice: *One of the things we are doing is looking at all those models and looking at what works and does not work in each, and also looking at where those models are trying themselves to improve the efficacy with which they approach their task and whether we can learn lessons from that.*

I will give you some examples. EU-Norway is a very straightforward bilateral agreement that has the simplicity of having two partners at the table, albeit with one of them representing many different interests. There are issues sometimes where it is difficult to get agreement; there are issues where one party, Norway or the EU, hold out for an allocation or a share that the other party feels is not right and you can get a delay in an agreement. So in 2014, from memory, and I think similarly in 2012, the agreement was not concluded in

early December, as is usually the case, before the December Council of the EU. In at least two years in the time I have been doing it, there has been a brinkmanship that has stretched, in one case, into February. One of the shortcomings of that is it is quite disruptive for the industry. So for parts of the UK fleet where access to Norwegian waters for cod is particularly important, when this sort of brinkmanship goes on, usually over overall allocations of cod of the TAC for cod, it can mean those access arrangements are suspended for a period of months until agreement is reached.

We have similar issues with the North East Atlantic Fisheries Commission, which predominantly deals with pelagic species through the coastal states meetings and has Iceland, Faroes, Norway and the EU as its parties. There is a similar issue there which is that for a number of years there was no agreement on mackerel at all, and everybody was unilaterally setting their own TACs because they could not agree an allocation.

One of the shortcomings sometimes of these looser types of agreements is that, unlike the EU where ultimately it comes down to a vote on QMV if all else fails, it is harder to sometimes reach agreement at all. To try to address that, one of the things that NEAFC, the North East Atlantic Fisheries Commission, is looking at is whether, in addition to having a straightforward negotiation where everybody has their own interests, they could establish some sort of principles and ground rules and broad formulae that would lead to a calculation of the allocation of TACs. We have quite established mechanisms, predominantly through ICES, the International Council for the Exploration of the Sea, for assessing fish stocks and whether they are at MSY or not, and that is quite an established body of evidence that most countries now follow. When it comes to who should have what allocation, it tends to be more of a haggle at the moment, and the things they are looking at, for instance, are where the spawning grounds are, where the nursery grounds are, whether the stock has migrated, what the trend is on that migration, and then have some kind of agreed formula to calculate the allocations, so you do not go into it as a straightforward haggling match every year—you go into it with some sort of ground rules.

Q25 Viscount Hanworth: To what extent do you believe the determination of the total allowable catches of the UK should be in concert with the European Union and various European countries after Brexit?

George Eustice: It is important to note as well, even after we leave the European Union, we will remain members of the UN and remain a member of other conventions, and under the UN Convention of the Law of the Sea there are quite clear provisions around the exclusive

economic zone but also clear commitments to co-operate with other countries where there are shared fisheries to agree shared TACs, and also a recognition of historic access rights as well. So there are international conventions, the principles of which we would continue to abide by. The answer is, on those migrating species where they are in shared waters, co-operating with other European countries, whether they are in or out of the European Union will continue to be very important.

Viscount Hanworth: Do you believe that perhaps as a first approximation that our fishing rights should be co-extensive with our EEZ?

George Eustice: International law on this is quite clear, that the EEZ is the extent of our fishing rights. That is the position in international law and so it is relatively uncontroversial. The only point I would make is that sometimes when it is said, “We are going to take back control of our EEZ out to 200 nautical miles or the median line”, it sounds perhaps more dramatic than it might be, in that even having established control of our EEZ we would then still engage in international negotiations around mutual access rights, mutual shares and the like.

Viscount Hanworth: You talk in your blog of the stark injustice in the allocation of various quotas, for example plaice and Dover sole in the channel. What is your basis for asserting it is a stark injustice? I know what the figures are but how do you proceed from the figures to the assertion of injustice?

George Eustice: It depends on different parts of the sea, so the point I would make straight away is that in the North Sea, it is generally accepted that we have an allocation which would be considered fair, in that we do have probably the majority of stocks such as mackerel, cod and haddock which are valuable and important stocks to us, but most of those are in our waters. When you look at something like the Celtic Sea, if you looked at what would be otherwise known as our EEZ, the truth is we get a relatively small share of the total allowable catch.

Viscount Hanworth: Would you not say there is a trade-off there? We have 84% of haddock, for example. How can we complain that the French have too much plaice and Dover sole if indeed their EEZ is so thoroughly constrained by the median lines? I can put an even more extreme case: what about the Netherlands, which has hardly any EEZ? Can we plausibly make a claim to the entirety of this very expansive EEZ?

George Eustice: *Under* international law that is the position; it is the position that countries like Norway would take, for instance. In the case of haddock in the Celtic Sea, I do not have

the precise figures before me but my recollection is that the UK allocation in what would be generally considered the Celtic Sea, so Area VIIbK and the other surrounding areas, is something in the region of 850 tonnes, whereas the French allocation is around 4,500 tonnes, so there is a significant imbalance there. That has been recognised for some time and, to be honest, even if we were staying in the European Union, even if the referendum result had gone a different way, in the next round of CFP reform we would have been thinking this issue of relative stability particularly in the West Country, particularly in the channel, is probably something we ought to be considering.

Viscount Hanworth: If I can finish with this assertion, it strikes me the fishing industry is gung-ho about “reclaiming our stocks” which seems to many of us to be utterly unrealistic, and if it did pursue that kind of agenda we would be in deep political trouble with our European neighbours. Would you accept this, or have the fishing industry more or less got it right?

George Eustice: I think I would make two points. The first is that on one level the industry have it right in that the allocation and share that we have on some of those stocks, notably plaice and sole in the channel, and notably cod and haddock in the Celtic Sea, is incredibly low given the amount of it that is actually caught in our waters. It is also the case that other EU countries and other European countries benefit considerably more from the access they have to UK waters than we benefit from access to their waters. So as a reciprocal arrangement there is no balance here. The rest of the EU benefits more from the access to the UK than the UK benefits from the access to them. Is there an unfairness there? I think there probably is and it is something we should look at. Then there is a second point which is frankly the nature in which you approach this discussion. Do you go in like Nigel Farage and kick the table over and upset everyone? Probably not. I think our European partners have a right to expect us to behave in an honourable and constructive way with them in subsequent negotiations that take place, and we will behave, as we do as a country, in an honourable way and a constructive way towards agreement, but I think we have a right to expect our European partners to engage on the same terms.

Viscount Hanworth: Finally, I must ask this, should we adhere to the discard ban when we exit the EU?

George Eustice: As some of you will know, I campaigned for us to leave the European Union, but I was very clear that fishing sustainably would remain a key tenet of UK policy if we did leave. The discard ban is the right approach. The UK argued for this. It has to be right

to strive to reduce discards, particularly regulatory discards—it makes no sense. I know there are challenges in that and I regularly meet fishermen and I understand all the challenges around shared species. I understand there will be difficulties, but I think having that as an objective that you strive towards is absolutely the right thing. What we need to do to make it a success is to ensure that we make maximum use of all the flexibilities, all the tools in the box that are in that policy, so that we can make it work in practice as well as in theory. So I recognise there will be challenges, but I am not minded to abandon it as an objective. Apart from anything else, we have a manifesto commitment to pursue this as an objective.

The Chairman: You mentioned ICES. Should the United Kingdom maintain that relationship that it has at the moment with ICES as its scientific-based data provider?

George Eustice: Yes. Again, I have to caveat this by saying it is very early days when we are thinking about this, but I think it is highly unlikely we would abandon an approach based on ICES advice. It is what we have now, it is what most other countries do whether they are in or outside the European Union. There is a point on the science which is that if you want, as I do, an evidence-based policy that is rooted in the science, you have to recognise that the science of the marine environment is incredibly complex. The science itself is never perfect. Often by the time the evidence comes through it is a little behind the curve and reality has sometimes moved on, and it is often quite difficult through statistical models to make accurate assessments of predatory patterns between species, for instance, and this can make the task of setting those MSY levels quite complicated. We have constantly to try to refine the science, both in the gathering of raw data on species—make sure we do more of that and use things like remote monitoring vessels and the like, so we can get the best possible science, but also more sophisticated software for how we interpret that raw evidence so that we are constantly aiming towards a more accurate evidence base for the science.

Lord Krebs: Just a very short question, if I may.

George Eustice: A scientist coming in at this point.

Lord Krebs: Not surprisingly. As you know, one of the consequences of Brexit is that the UK scientific community may lose access to quite a significant amount of scientific funding. My question to you is therefore about maintaining that scientific expertise: would your department, or other government departments, then be expecting to replace the European funding that disappears so we have the scientific expertise to underpin fisheries policy?

George Eustice: You have neatly dragged me into Treasury issues and issues for the new Department for Business, Energy and Industrial Strategy, because they would lead on these

issues. I would simply say this, and it is reflected in the initial Treasury announcement and in many of the things we have said since: while we are in the European Union it is business as usual, we continue to abide by EU law and we will continue to access those grants and there will be a further announcement from the Treasury on how to deal with any agreements after 2020 on some of the structural funds, for instance. However, clearly, once we are outside the European Union, we will no longer be paying the membership fee to the European Union and it will be for us to take responsibility for some of those things currently being funded by the European Union. This is an issue which has not been resolved yet but I do not think I can be clearer about the importance of science in fisheries. We have of course through Cefas an amazing global centre of excellence based at Lowestoft and down in Weymouth as well, world-renowned fisheries expertise that we would want to retain.

The Chairman: Baroness Sheehan, I think we have gone through some of the next question but perhaps you would like to pick out what you feel we still need to cover.

Q26 Baroness Sheehan: You have stated here several times the importance that you place on sustainable management of fish stocks and, prior to the vote on Brexit, you stated that the Government would conduct an assessment of the zonal attachment of fish stocks and an assessment of the spawning grounds, which would help inform the new settlement regarding fishing opportunities for shared stocks. Has that assessment been done? Can you now tell us which stocks would qualify as UK stocks?

George Eustice: The answer is that, as part of our preparations for negotiations and indeed preparations for developing fisheries policy for after we leave, that analysis has started but it is not complete. I have asked Cefas, where we have some fantastic experts in this field, to begin the process of analysing both data that are already available and those issues I mentioned, things such as biomass, spawning grounds and abundance. They are quite clear criteria that are already followed by ICES and ICES tend to look at those things. What we have not done previously, because we do not need to while we are in the CFP, is analyse what that means within the context of our own exclusive economic zone. So Cefas have started that work but it is not completed.

Baroness Sheehan: So you cannot at this point tell us which stocks would qualify as UK stocks?

George Eustice: The best evidence we have to go on at the moment on the stocks that qualify as UK stocks is the understanding about shared stocks, and that is why every year at the December Council we have an argument around the total allowable catch in the

different ICES areas based on the science. We have under the principle of relative stability at present an access to a share of that total allowable catch and the shares are fixed in stone while we are in the European Union. We estimate that other European countries, both EU and third countries like Norway, fishing in the UK EEZ account for over 1 million tonnes of fish compared to in the region of 150,000 tonnes for the UK fleet in EU waters and third-country waters, predominantly Norway again. So there is a significant imbalance, as I said earlier. We have a good understanding of which stocks are shared. In many cases we do not believe we have a fair share of that stock but the analysis that Cefas is doing will help to inform some of these discussions in future.

The Chairman: Lord Krebs, again we have covered parts of the next question but I am sure there are bits you would like to explore further.

George Eustice: Comprehensive answers mean I am covering a lot.

Q27 Lord Krebs: Thank you, Minister, I think you have largely covered the questions I was going to ask. Just to recap, I think you have said that you view exiting the EU as an opportunity to renegotiate the UK's TAC allocation to achieve what you would view as a fairer share, although as one of our previous witnesses told us, fairness is partly in the eye of the beholder. You have also said a little, in answer to Baroness Sheehan, about this question of rights of access to UK waters and you have just quoted 1 million tonnes versus 150,000 tonnes for other countries extracting from our waters and us extracting from their waters. You cannot go into the details of how you are going to approach the negotiations obviously because that is something that will develop, but it is implicit from what you have said that rights to access UK waters will be part of the negotiating stance. I wondered more generally: why should the EU Member States be more willing to engage in negotiations at this point than when we are already members of the EU? What is the unlocking of this negotiation possibility that you see as a result of Brexit?

George Eustice: I think probably the best way to describe the crucial difference is the legal baseline. Outside the European Union the legal baseline is the UN Convention on the Law of the Sea, which gives us, as a starting principle, control of our EEZ, and the discussions which take place after that are a matter of negotiation; the baseline while we are in the European Union is the institutionalised formulaic qualified majority vote that we have. So the discussion outside the European Union is very much around what countries benefit from access to our waters, and we would like a balanced discussion on that. The discussion while we are inside the European Union is: can we get a qualified majority to get change? I

discussed two years ago with officials in the next round of CFP reform, on the presumption we might be staying in, post-2020 what might we argue for, and we had a discussion on the issue of relative stability. The challenge we have while we are in the European Union is that the countries under a qualified majority voting system, which is an institutionalised voting system which gives us a portion of influence around the EU table, that would support us getting a qualified majority vote for change are other countries that also would like our fish rather than the ones who have it now. So effectively inertia is institutionalised through the qualified majority voting system of the EU. What changes is the baseline. As I said earlier, the crucial thing is we do not barge in like Nigel Farage and tip the table over and upset people, because these are sensitive negotiations and we have to recognise historic rights, but the legal baseline is an altogether different one from the one that pertains while we are in the EU.

Lord Krebs: I guess it is a judgment whether that change of legal base will overcome perceptions of fairness that will obviously differ between countries. France presumably does not think it is unfair it is getting the current share of the channel fisheries.

George Eustice: I am sure it would argue it is fair, but it is difficult to justify. If you look at some of those stocks, the difference is quite stark. It is a complex area. There are other sectors where, while not specifically having access within the French six-to-12 mile zone, in some sectors, for instance on scallops, access to the French part of the channel is quite important to the UK industry. I accept there are trade-offs. All these things will be a matter for negotiation in a new world. The other point I would make is the UK above any other EU country is the country that argued for sustainable fisheries, that argues for science-led evidence-led policy, and those crucial fundamental things will not change because we are outside the European Union. We will exercise our influence in a different way from through a qualified majority vote; it will be exercised differently through other international fora, but we will still be a champion for sustainable fisheries and for protecting our marine environment.

The Chairman: We will now move on to a slightly different angle with Lord Rooker.

Q28 Lord Rooker: George, I just want to support what you said about Cefas. It is a UK secret weapon, in a way, and can I ask you resist any attempts from Whitehall bean counters who once thought they had a great plan to shut Weymouth, believe it or not. It is a massive asset for the UK and will be a help in the negotiations. I have two questions I want to ask.

One is a simple one about the Merchant Shipping Act. Have you considered bringing back any parts of that during the negotiations to get more control, if you like?

George Eustice: The honest answer is that this is an area we will look at and consider but where there is genuinely not a government position. We have not reached a view on how we would approach that. You will be aware that this is bound up, I think, in the famous Factortame case which became a major test case in the age-long debate about parliamentary sovereignty and whether laws made in this place took precedence over EU law. It was a very important judgment. Obviously outside the EU we would be free to revisit that and look at the allocation of quotas to foreign vessels, except we may want to take regard of the fact that in many cases these are commercial entities which bought British vessels and inherited the quota that went with them. There are arguments on both sides. We genuinely have not reached a position, but it is certainly an area that we would look at. I am afraid it one of those intricate areas I have not had a chance to discuss with other government colleagues for us to reach a firm view.

Lord Rooker: We always have to remember of course they were sold the vessels. There are two parties to this negotiation. Can I just raise one other issue? Your blog was really interesting, I thought you gave two brilliant examples of where the EU negotiators have sold out our colleagues in the Scottish fishing industry on a couple of occasions; I will not go over the details because I think they are very clear. Given the fact that fishing is a very small part of our overall economy, can you guarantee the negotiators we have in the new department will make sure the Scottish fishing industry is not similarly sold out as part of the overall negotiations, which include more than fishing?

George Eustice: I am working incredibly closely with colleagues in the Department for Exiting the EU. I think it is understood across government that we need to approach this UK-wide and that is why one of the Prime Minister's first tasks was to go to Scotland and all the other devolved Administrations to talk to them about these issues. The fishing industry is incredibly important to Scotland; we absolutely recognise that. I cannot say more than this is a vitally important issue and a vitally important industry, particularly in Scotland. We recognise that, and you will find recognition of that is reflected in our approach to these negotiations. A lot of fishermen will say, long before my time, there is a feeling that many compromises were made on fishing in particular and many interests were exchanged in order to buy the late British membership of the European Union, and that is still something that rankles with many in the fishing industry. As I said, we recognise the importance of this

industry and are working across government to ensure that is recognised as part of the negotiations.

Lord Rooker: That is a clear answer.

The Chairman: We will move on to devolution. Lord Selkirk?

Q29 Lord Selkirk of Douglas: Lord Chairman, the Minister has answered to a very large extent the question I was going to ask. Perhaps for the sake of clarity, can the Minister reassure us that, given the sectoral differences within the UK and the opportunity for redesigning UK fisheries policy, the Government intend to involve industry, the devolved Administrations and other interested parties in the development of this post-Brexit fisheries policy? Of course this is very important in Scotland as well as in other parts of the United Kingdom.

The Chairman: A supplementary on that is, because fisheries is devolved, are we going to end up having four different fisheries policies within the UK after this negotiation?

George Eustice: We have this challenge on both agriculture and fisheries. The bit we have to work out is how we put in place a UK-wide framework of some sort; what the limits of that framework are; then how we give as much discretion and control as possible to the devolved Administrations to manage fisheries in a way that works for them, so that we respect the existing principles of the devolution settlement and we create the scope in some areas for Administrations to act more expeditiously to deliver changes in things like technical regulations faster than they might otherwise be able to, but to do so in a way that preserves the UK-wide framework. In some ways it is not a new challenge in that Defra, perhaps uniquely as a department, because 80% of our regulation comes from the EU, has to do enormous amounts of diplomacy with our European partners before we can even commence on that diplomacy, and for the last decade or more also has had to do a large amount of internal diplomacy and discussion with the devolved Administrations. So on fisheries, to give you an example, the Scottish Fisheries Minister, previously Richard Lochhead but now Fergus Ewing, and all the other devolved Fisheries Ministers, attend December Council with me. When we go into the trilateral negotiations with the Commission and the Council presidency to make our points, they sit alongside me, so it is a UK delegation that I lead but with the devolved Ministers alongside me, and we discuss our interests with the European Commission. In some ways it is not that new, in that we have always been incredibly inclusive in those fisheries negotiations with Scotland. The other thing I would say, which is an important point which I hope the Committee will take, is that as

well as talking to the devolved Administrations, it is also important we have a very strong dialogue directly with the industry, particularly in Scotland but also in Wales and Northern Ireland. There is a reality here that if you talk to the industry in Scotland, they do not necessarily agree with the Scottish Government on everything and the Scottish industry themselves I believe would like to ensure there is a retention of some kind of UK-wide framework. In particular, they recognise the value that comes from a UK-wide negotiating position in international negotiations. So we have to make sure that we engage very closely with the devolved Administrations and we will, but also the industry in those devolved Administrations.

Lord Selkirk of Douglas: Thank you very much for a very helpful answer.

Lord Trees: Could I just ask a quick supplementary on that? You said the baseline in international law was very clear and the EEZ would be the baseline. Does that international law differentiate between our devolved countries? I presume it is one EEZ for the UK.

George Eustice: Yes, that would be my understanding, because the UK is a signatory to the UN and a signatory to that particular convention.

Lord Trees: So that would obviously limit scope for certain individual activity or agreements?

George Eustice: Yes. It does not limit the scope for us within the UK to work out our own conventions, so we have had for a number of years, I think almost uniquely actually within government, a convention that Scottish Fishing Ministers are part of our UK delegation in fisheries negotiations. That is a convention we have established. We also have a concordat that we agree with all the devolved Administrations on how we manage things such as transfers in fixed quota allocations between Administrations. We have a long-standing track record of working through our differences on this front. In international law, it is the UK that is the signatory to the UN Convention on the Law of the Sea, and even with our devolved settlement we have a pretty clear principle that has never changed which is that on the international stage it is a UK position.

The Chairman: Indeed, and I am sure that is right, Minister. Moving on, we are still with you, Lord Trees.

Q30 Lord Trees: Yes, sorry. Good morning, Minister. I am going to ask about resourcing. There have been very severe budget cuts to Defra in recent years and concerns have been voiced about the capacity to deal with all these complex negotiations and analyses which will inevitably precede them. How would you address those concerns?

The Chairman: This was brought up quite strongly specifically by some of our previous witnesses.

George Eustice: There are a number of points I would make. Number one, we have an incredibly talented marine and fisheries team in Defra. I have worked with them now, as I have said, for three years and I am very impressed with the expertise we have. We have even deeper technical expertise within Cefas and we have worked very hard in Defra in the last 18 months to two years in particular to make sure we link up some of that delivery policy expertise within the Defra family, so we actually make greater use and draw more on some of the expertise we have in the arm's-length bodies and agencies. In the context of the EU, I think I would say this: first, we are mapping out the workload that we have, both to design a policy post-Brexit but also to play our part in those crucial negotiations for Brexit itself. Our civil servants and our Permanent Secretary are leading on that piece of work. If a case has to be made within government to say that Defra has a greater exposure to these issues and a greater corresponding workload as a result of that and we need to make a case for additional resources, obviously we will do so. Some initial work to look at that has been done.

There is a separate point I would make and that is, while there is an additional workload to think about policy post-Brexit, to do the planning for the Brexit negotiations itself, there may also be other areas where we may be able to slim down or streamline work on emerging EU dossiers that are some years off. If we have an emerging EU dossier that is, in the cold light of day, highly unlikely to come to fruition for five years and we are in the foothills and early stages of discussing things, there is a moot point about how much resource we throw at that given we will be outside the European Union at that point. So there may be an opportunity to reprioritise the work we are doing within the European Union now and take a view on some of those agendas which are some years off to free up resources to focus on the more immediate tasks that we have in front of us now.

Lord Curry of Kirkharle: George, I would just like to follow up on the subject of negotiations. You have stated quite clearly and quite rightly you want to use scientific evidence as the basis for negotiations on fish stocks and movement et cetera. When it comes to market access and tariffs, it is inevitable there is going to be some horse trading and one may well be played against the other, and some fish species are particularly important to the UK and more important than others. The whole issue of tariff negotiations will have to take place. Have you thought about that? You are going to tell me this is still

work in progress, but have you thought about the early trade-offs you may have to consider to secure market access?

George Eustice: The answer is, as you predicted, that we are doing an enormous amount of work in this area. As part of developing a cross-government position, Defra is retaining the lead for agricultural and fisheries trading issues. That is the norm internationally as well. We are doing quite a bit of work and analysis on the access that we would seek to have to the European market and vice versa but also opportunities and potential in third markets. In our written submission we gave you the breakdown of the main species that we export. There is one other point that is worth looking at, and we are looking at, and that is there are countries—obviously Iceland and Norway in particular—from whom we import very large quantities of fish, predominantly cod, and those are done under preferential tariff agreements. So fisheries traditionally has been outside. EEA countries have free trade and access to the customs union for most goods, but fisheries has always been regarded as separate to that; a separate item. Notwithstanding that fact, there is preferential access for those countries. Broadly speaking, the history of the fishing industry in this country is that we export large amounts of what we catch—predominantly haddock, huge amounts of crab, live crabs even to places like China, and large amounts of mackerel to countries such as Nigeria—and we import a lot of the fish we eat, predominantly cod from Iceland going into those major processors in Grimsby. That has been a pattern of our fishing industry and trading for many, many years.

Q31 The Chairman: Minister, Lord Rooker has dealt very well with the question I was going to ask but can I come back to the politics of this a little bit? Both you and I have been involved in fisheries issues for some time; we come from a region where these issues—and in Scotland, as has been described—are quite emotional and they are around communities and they are deeper than just the economics of the situation. We had here last week the representative of the Scottish Fishermen’s Federation and I will describe his view. He brought out a big map of the whole EEZ of the UK in blue, stood where you are now and said basically, “That is our EEZ, we should keep everybody else out, and what our strategy in the UK should be is to expand our fishing industry so we use all our own stock ourselves.” That description of mine he would probably describe as a compromise on what he actually said. It was very, very strong indeed. I am not saying you are suggesting that in any way, but how do we avoid in this industry the inevitable disappointment there is going to be on any

solution we can possibly get, however good it is? How do we deal with this particular sector which has very, very high expectations?

George Eustice: I meet fishing representatives regularly. I think I met the same Scottish fishing representative before he came here, so maybe it was meeting me that got them wound up to say these things. It comes back to what I said earlier. There is a question of our negotiating position and on that fishermen do make a fair point, that if we are entering a negotiation, recognising where our strengths lie is an important first principle. As I said earlier, the access other countries have to our EEZ and the volume of fish they catch within our EEZ is significant when compared to the corresponding access we have in EU waters, and I do not think anyone would really dispute that. So it is recognising that. Then it is a question of playing that hand in good faith in a way that is good natured, in a way that is not intended to provoke confrontation but which is intended to work towards a solution. I think this country is very good at doing that. I think there is a danger that we have, obviously, just come through a referendum campaign and people around this Committee will have been on different sides of that. Many of us have done many campaigns; campaigns are quite brutal by their nature and people take very tough positions, but my view is that now that the decision has been made, as a country we need to reconcile to that decision and we need to change our body language and reassure our European partners that we are not hostile, we want a different type of partnership, we want to take back control of our own law making again, but we are also a country that is outward-looking, engaged and we are going to engage with Europe and engage with the rest of the world but in a slightly different way from how we have done over the last 40 years. I think there is a task that we all have, which is to take the heat out of these issues, so we can have a genuinely constructive discussion and negotiation around Brexit. It, after all, is probably the biggest decision this country has taken since joining the EU or possibly since the Second World War. It is a big decision which is very complex and will require a lot of good will and hard work and I think we need to approach it in the right spirit. So my answer is: I completely understand where the industry are coming from and I understand their suspicion they might be sold down the river, as they believe they were when we joined the EU. They are right we should recognise the strength of our negotiating position, but we need to approach these negotiations in the right frame of mind.

The Chairman: I wish you luck in your negotiations with the Scottish Fishermen's Federation more than I do with the European Commission, to be honest, Minister. We

thank you very much indeed for your contribution and coming here and talking to us. It has been a very useful session. Thank you very much indeed.

WWF — Written Evidence (FBR0010)

As the UK begins the process of exiting the European Union, WWF is calling on the UK Government to lead by example by setting high standards of environmental governance to protect our precious wildlife and wild places. The European Common Fisheries Policy (CFP) includes important conservation commitments for managing fish stocks and our wider marine environment. Given that the UK fought hard to establish some of the more progressive elements of the CFP we hope the UK maintain these commitments in its future policies.

The future of the fishing industry depends on the effective management of UK fisheries to allow them to continue producing seafood for decades to come, and thus we welcome this inquiry and hopes it informs a process that can set the UK on a path to becoming a world leader in sustainable fisheries management.

WWF has a breadth of experience working with marine stakeholders, including government and industry players, with a goal of developing effective and sustainable fisheries which deliver long term benefits for society and the environment. This evidence submission includes a separate document highlighting WWF's key asks for the future of UK fisheries outside the EU.

Which are the most urgent priorities for the UK's negotiations with the EU on a future relationship with the eu regarding fisheries and why?

a. What should the UK aim to achieve from this negotiation?

Fish stocks are an important and valuable national asset that governments and stakeholders have a responsibility to manage sustainably. They are a renewable resource that we rely upon to provide a key element of food security in the UK and elsewhere. However, fish are also a shared resource, in that they exist in the waters of, and are fished by, other European Member States. As such it will be essential for the UK to agree joint management arrangements with these other interested parties in order to secure a sustainable future for these valuable resources.

Key will be a clear commitment to fishing in line with Maximum Sustainable Yield and a continued commitment to bringing an end to the wasteful practice of discarding perfectly healthy fish. WWF was encouraged to see the recent letter from 36 Conservative MPs to the Prime Minister, Theresa May, urging the Government to "Restate our commitment to fishing to Maximum Sustainable Yield: a hard-won, UK-led reform of the Common Fisheries Policy." as a key environmental priority in the negotiations following the referendum. In support of these objectives the UK should review its fleet capacity, ensuring that it is in line with the available fishing opportunities that are finally negotiated, and that there is a sustainable balance between the two.

Fish are a global commodity and the UK's continued trade opportunities rely on it being able to continue to provide strong assurances to buyers and sellers of fish that the UK is fishing to the same, if not higher, standards than it did under the CFP. If it fails to provide such assurances there is a risk that buyers and retailers with high standards of sustainable sourcing policy will cease to source from UK catchers. It is therefore important that the outcome of negotiations establishes the UK in such a position.

Because UK fisheries are currently governed by the CFP, an EU regulation, there is a lack of domestic legislation and the UK will need to adopt national legislation that will meet, and exceed, the commitments in the CFP and ensure their effective implementation. New legislation needs to include the following key elements:

- a) An effective time-bound discards ban;
- b) A commitment to science-based management that aims to achieve healthy stocks capable of supporting Maximum Sustainable Yield by 2020;
- c) A commitment to establishing and maintaining a fishing fleet that is in line with available fishing opportunities;
- d) A commitment to effective seafood labelling;
- e) A requirement to implement an ecosystem approach to sustainable management;
- f) Effective monitoring and enforcement of fishing activities.

As identified in the findings of the second report of the Natural Capital Committee (NCC) from March 2014, marine fisheries are natural assets that have not been managed effectively with long term sustainability in mind. The report claims that gains from improving wild populations of fish could be worth as much as £1.4billion per annum to the economy. Even if a more conservative estimate were to be applied, it is undoubtedly the case that there are substantial economic gains to be made from the improved management of marine fisheries.

Should the UK seek to preserve access to free trade in fish?

a. What trade-offs would be likely to be necessary in order to preserve access to free trade in fish and seafood?

The EU is the largest single fisheries market in the world, with exports of UK fish and fish products to the EU worth over £900 million in 2015, accounting for almost 70% of total UK exports for the sector. Maintaining access to this important market will be a high priority. In order to secure access there will be a need to work together to develop a legal framework and supporting arrangements such as effective monitoring, enforcement and funding, to ensure the delivery of a progressive management and governance system for all UK fisheries, wherever they operate, and for the wider marine environment. If this happens, UK seafood products can remain a desirable and sustainable product for buyers and sellers.

If such assurances cannot be given there is a risk that the current standards required by buyers of UK seafood will not be met and the market could be lost.

What approach to achieving maximum sustainable yield (msy) and sustainable fisheries would be in the UK's best interest outside of the CFP?

- a. Should the UK continue to co-ordinate Total Allowable Catches (TACs) and quotas with the EU and neighbouring countries?
- b. To what extent should the UK preserve current TACs and quotas?
- c. Could, or should, the UK seek to renegotiate the relative stability key?

It is vital that current CFP commitments to sustainable fishing are retained.

Recital 7 of the CFP notes; ‘the Union should improve the CFP by adapting exploitation rates so as to ensure that, within a reasonable time-frame, the exploitation of marine biological resources restores and maintains populations of harvested stocks above levels that can produce the maximum sustainable yield. The exploitation rates should be achieved by 2015. Achieving those exploitation rates by a later date should be allowed only if achieving them by 2015 would seriously jeopardise the social and economic sustainability of the fishing fleets involved. After 2015, those rates should be achieved as soon as possible and in any event no later than 2020. Where scientific information is insufficient to determine those levels, approximative parameters may be considered.’

Article 2 of the CFP state that ‘the CFP shall apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield.’

In order to deliver sustainable management it will be essential for the UK to follow scientific advice and negotiate within these limits with other fishing nations in shared sea areas. Fish are a mobile resource and management must be shared and set within sustainable limits in order to avoid overfishing of stocks.

What obligations to co-operate on fisheries management exist under international law?

- a. How will this affect the UK’s ability to restrict access for foreign vessels to the UK?
- b. To what extent will historical access rights affect the ability to restrict foreign vessels from accessing UK waters, or other countries’ ability to restrict UK access to their waters?
- c. Will the UK be able to restrict access for vessels that are UK based, though owned by an EU company before and after Brexit?

At the World Summit on Sustainable Development at Johannesburg in 2002, the European Union and its Member States committed themselves to act against the continued decline of many fish stocks and to restore fisheries to their maximum sustainable yields by 2015.

The Sustainable Development Goal on Oceans (goal 14) commits signatories to conserve and sustainably use the oceans, seas and marine resources for sustainable development, with target 14.4 being: By 2020, effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics.

Article 63 (2) of the 3rd UN Conference on the Law of the Sea in 1982 states “Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate sub-regional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area.”

As noted above, the European Member States agreed that in order to meet its 2002 commitment to act against the decline of fish stocks the EU should improve the CFP by adopting exploitation rates so as to ensure that, within a reasonable time-frame, the exploitation of marine biological resources restores and maintains populations of harvested stocks above levels that can produce the maximum sustainable yield. It was agreed that the exploitation rates should be achieved by 2015. It was also agreed that achieving those exploitation rates by a later date should be allowed only if achieving them by 2015 would seriously jeopardise the social and economic sustainability of the fishing fleets involved. After 2015, those rates should be achieved as soon as possible and in any event no later than 2020. Where scientific information is insufficient to determine those levels, approximate parameters may be considered.

There are a number of countries that have historical rights to fish in UK waters including France, Ireland, The Netherlands, Belgium and Germany, while the UK has historical rights to fish in the waters of some neighbouring countries such as France and Germany.

While the UK will have sovereign rights over its waters, fish stocks cross international boundaries and as such will require joint management. This will undoubtedly influence final arrangements on who can fish where. Shared management and reciprocity of access will be necessary.

What type of relationship with the EU and neighbouring countries would be preferable for securing effective regional management and co-operation?

- a. With whom should the UK seek to establish bilateral relationships?
- b. What type of governance framework could the UK pursue?
- c. What approach to dispute resolution could be desirable?

As noted above it, will be necessary for the UK to negotiate with the EU Member States (and any other coastal state of relevance) on key stocks in shared fishing areas. The model that is often referenced is that of the 'Norwegian model', whereby the UK would become a member of the European Economic Area (EEA) and the European Free Trade Area (EFTA). This would continue to give the UK access to the EU single market, but it would also require the UK to make financial contributions towards the EU without having any right to participate in decision making and limited opportunity to shape decisions. The UK would also be subject to EFTA/EEA enforcement processes.

This model would mean that, like Norway currently does, the UK would have to negotiate annual quotas for shared stocks with the EU and other coastal states.

Which regional organisations, advisory bodies and scientific communities should the UK prioritise access to?

- a. Once the UK leaves the EU, could it uphold its membership of such organisations?

Regional advisory councils (ACs) are bodies established in the CFP which provide an opportunity for industry and other interest groups to provide comment on fishing opportunities and management. The ACs of most interest to the UK are the North Sea AC, Northwest waters AC and the Pelagic AC. The regional decision-making lies with the so called High Level Groups, which are made up of Member State representatives. The UK

would lose its seat in these High Level Groups and it is difficult to envisage an alternative. Similarly, UK stakeholders (industry and other interest groups) would lose their right to retain membership of any of the regional advisory councils, as they will not be EU members. There could be opportunities for stakeholders (and government representatives) to attend some of the AC meetings, but only as observers rather than active members.

In the interests of managing certain areas such as the North Sea, where the UK Exclusive Economic Zone takes up almost half of the sea area, it will be vital for the UK to identify the best means of ensuring consistency of approach to management across not just international boundaries but also, given the devolved nature of fisheries management within the UK, across national administrations.

It is likely that that the International Council for the Exploration of the Seas (ICES), which develops science and advice to support the sustainable use of the oceans, will continue to be the key authority for setting quotas. In support of a UK commitment to a strong science-based management regime, UK scientists should be supported in continuing to contribute data to facilitate the setting of sustainable quotas.

As an independent nation there could be scope for the UK to play a greater influencing role in regional management organisations such as the Northeast Atlantic Fisheries Commission (NEAFC).

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