

Research for PECH Committee – Workshop on impacts of the EU-UK Trade and Cooperation Agreement on fisheries and aquaculture in the EU - Part I: Legal aspects

The EU-UK Trade and Cooperation Agreement (TCA) establishes the legal framework applicable to the relations between the EU and the UK. The purpose of the present study is to examine the **legal aspects of the TCA** insofar as the **agreement relates to fisheries (especially Part Two, Heading Five of the TCA)**.

Scope of the fisheries provisions of the TCA



Chapter two of the study examines the **scope of Heading Five**. This Heading extends to the Exclusive Economic Zones (EEZs) and territorial seas of EU Member States, the EEZ and territorial sea of the UK, and the territorial sea adjacent to the Bailiwicks of Guernsey and Jersey and the Isle of Man. It applies to fishing vessels flying the flag of an EU Member State and registered in the Union as well as UK flagged fishing vessels that are registered in the UK. The TCA covers virtually **all categories of marine living resources** that are found in the waters of the EU and/or the UK.

The present document is the executive summary of the study for Workshop on impacts of the EU-UK Trade and Cooperation Agreement on fisheries and aquaculture in the EU - Part I: Legal aspects. The full study, which is available in English can be downloaded at: <https://bit.ly/31rlhLP>

Conservation and management

Chapter three details the **conservation and management framework applicable to fisheries**. In doing so, it highlights the importance of the precautionary and ecosystem-based approaches to fisheries management as well as the significance of fisheries management based on the best available scientific advice. Chapter three further outlines the cooperation obligations of the EU and the UK, as well as the obligations associated with **authorisation and licencing**. In doing so, the TCA **recognizes the sovereign rights of the EU and the UK** in their respective waters.

Fishing opportunities

Chapter four details the **legal framework for the fishing opportunities** enunciated in Heading Five and in particular those addressed in **Annexes 35 and 36**. It examines the **joint setting of total allowable catches (TACs)** and the subsequent **allocation of pre-determined quota shares** for certain categories of fish stocks. Included in chapter four is a discussion of pre-determined quota shares for **other groups of stocks** (e.g. stocks managed in the framework of regional fisheries management organisations (RFMOs)). For many of these stocks, the EU's pre-determined quota shares are **gradually reduced** until the end of the adjustment period in 2026. Thereafter, unless amended by agreement, the relative quota shares of both Parties **remain stable**.

Arrangements on access to waters

The focus of **chapter five** is on the **arrangements on access to waters**. The Parties are entitled to use their **fishing opportunities** in the waters of the other Party. During the **adjustment period**, each Party has full access to the EEZ of the other Party as well as partial access to the 6-12 nautical miles (NM) belt of the territorial sea for certain listed stocks. **After June 2026, annual consultations** will determine the level and conditions of access. Chapter five then analyses **compensatory measures** that may be taken in the event that one Party, if provisional TACs have been adopted, unilaterally changes the level and conditions of provisional access. It ends by detailing the **specific access arrangements** applicable to the territorial sea of the British Crown Dependencies and the adjacent territorial seas of EU Member States.

Arrangements on governance

Chapter six examines the **arrangements on governance** for the implementation of the TCA's fisheries provisions. It provides an in-depth discussion of the **mechanism for remedial measures and dispute resolution**. Chapter six also details the **institutional framework** in place to implement Heading Five – which framework comprises the EU-UK Partnership Council, the Specialised Committee on Fisheries and the Parliamentary Partnership Assembly. Additionally, it examines another mechanism of the TCA dedicated to the **termination** of Heading Five.

Trade-related provisions concerning fisheries

Thereafter, **chapter seven** explains **trade-related provisions of the TCA that are relevant to fisheries**. In this regard, “fishery products” are considered as originating in the relevant Party, and generally enjoy **preferential tariff treatment**. Chapter seven also includes a discussion of various commitments and obligations concerning **trade and sustainable management of marine biological resources and aquaculture**. Whereas the commitments concern compliance with international fisheries law, the obligations address participation in RFMOs, combatting illegal, unreported and unregulated (IUU) fishing and cooperation in the WTO, RFMOs and other fora.

Conclusions and recommendations

Chapter eight provides the **conclusions and recommendations**. It emphasises that the fisheries-related provisions of the TCA constitute a bilateral fisheries agreement **unprecedented** in international fisheries law. These provisions also differ from the equally complex regime of the EU's Common Fisheries Policy (CFP), particularly in relation to the mechanisms for compensatory measures, remedial measures, and dispute resolution foreseen by the TCA. The extent to which the TCA **integrates aspects of fisheries and trade** is clear evidence of the success of the EU in achieving its goal of creating a **strong bond** between the fisheries arrangements and the provisions on trade in order to reduce the UK's legal and political leeway in withdrawing from (parts of) the arrangements on fishing opportunities and access to waters.

Chapter eight concludes that the provisions on **access to waters** during the adjustment period until 30 June 2026 constitute the core of the fisheries-related provisions of the TCA. It stresses the uniqueness of the mechanism for **remedial measures**. This mechanism is again accompanied by a binding **dispute resolution procedure** that involves a review of the legality of compensatory measures by an arbitration tribunal. Chapter eight highlights that the implementation and future development of the detailed fisheries regime of the TCA is primarily governed via the **Partnership Council** and the **Specialised Committee on Fisheries**. The role of the European Parliament is limited to an oversight and advisory function in relation to the implementation and adoption of recommendations addressed to the Partnership Council through the joint **Parliamentary Partnership Assembly**.

Chapter eight furthermore emphasizes the **ambitious nature** of the objectives and principles concerning the **conservation and sustainable use of fisheries**. A priority of the EU should be to ensure that the TCA's fisheries provisions and their future development are implemented in line with these objectives and principles. The Parties should strive to reach agreement on sustainable TACs and other management measures during the annual consultations. In the absence of agreement on TACs, the TCA provides for an **innovative mechanism for science-based and precautionary provisional TACs**. This is a considerable achievement that could provide a blueprint beyond the EU-UK fisheries relationship, including within the framework of RFMOs.

Concerning **access to waters**, it is likely that the UK will seek to reduce EU access to its waters as part of the annual negotiations after 2026, which may lead to future disputes going far beyond the current disputes experienced in relation to the UK's territorial sea and that of the Bailiwick of Jersey. Chapter eight of the study strongly encourages the parties of the TCA to **act in good faith, manage expectations, and adopt moderate positions** to avoid disputes over access that could result in severe repercussions for fisheries, trade, and the EU-UK partnership generally. The trade-related instruments of the TCA should arguably be considered a **matter of last resort** if Part Two, Heading Five of the TCA is meant to provide a lasting cooperative framework for fisheries.

The more **confrontative instruments** for dispute resolution envisaged by the TCA should be **handled with caution**. To avoid the **risk of countermeasures** in response to unlawful remedial measures as well as an aggravation of the dispute more generally, **invocation of the general dispute resolution mechanism** under Part Six of the TCA, which follows a reverse procedure (remedial measures only after arbitration), may often be the preferred option of dispute settlement compared to immediate remedial measures. Even in the most serious disputes, there is little incentive for the Parties to opt out of the TCA's fisheries regime entirely as the Parties cannot unilaterally escape these arrangements by terminating Heading Five (Fisheries) without also terminating Headings One (Trade), Two (Aviation) and Three (Road Transport).

Further information

This executive summary is available in the following languages: English, French, German, Italian and Spanish. The study, which is available in English, and the summaries can be downloaded at: <https://bit.ly/31rlhLP>

More information on Policy Department research for PECH:
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