
EU-UK relations in fisheries



IN-DEPTH ANALYSIS

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This paper provides an overview of the fisheries question in relation to the United Kingdom's withdrawal from the European Union, in particular as regards the significance of fishing activities in UK waters and of EU-UK trade in fishery products, in the context of setting up future fisheries relations under the Trade and Cooperation Agreement reached between the two parties in December 2020.

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Executive summary

The United Kingdom's decision to leave the European Union ('Brexit') has brought significant uncertainty for the fisheries sector. Fisheries, and especially EU fishing rights in UK waters, played a prominent role in the negotiations on future EU-UK relations, ultimately becoming the final obstacle to reaching an agreement, and the very last point agreed.

The UK became an independent coastal state as of 1 January 2021, with full responsibility over its waters, stretching as far as 200 nautical miles from the British coast. As UK waters have long been a central part of the EU's North-east Atlantic fishing grounds, the new boundary cuts across longstanding relationships. In addition, the EU and the UK share almost 100 fish stocks that straddle their maritime boundary. Under international law, they have a responsibility to cooperate on the management of these stocks, and to limit disruption of existing fishing activities.

While the UK has fished around 37 % in weight and 51 % in value of the total landings from UK waters, EU fishing vessels have traditionally harvested a large part – 48 % in terms of live weight and 38 % of the landed value, with the remainder landed mainly by Norwegian vessels. The Member States that landed most fish were Denmark, the Netherlands, France, Ireland and Germany. Other Member States taking smaller amounts from UK waters were Sweden, Belgium, Spain and Lithuania, as well as, in recent years, Poland and Portugal. France landed the highest share of the landed value, with around one third of the EU-27 landings. Mackerel and herring made up the greatest part of the landings for both EU and UK vessels. Besides these two species, the EU fleet mostly fished for other pelagic species (sandeel, blue whiting and horse mackerel), whereas UK vessels mainly landed demersal fish and shellfish (haddock, king scallop, Norway lobster and edible crab).

The UK exports most of the fish that it catches, mainly to the EU, as well as a large amount of salmon from aquaculture. As an EU Member State, around two thirds of the total value of UK exports of fishery products reached the EU market, with France as the main destination, as well as Ireland and Spain. On the other hand, the UK imports most of the fish that it consumes, mainly from northern countries (Iceland, Faroe Islands, Norway) and from Asia (China, Vietnam). The EU provides around one third of UK imports of fishery products. The main species imported to the UK are tuna, cod, haddock, salmon, shrimps and prawns.

The recent EU-UK Trade and Cooperation Agreement (EU-UK TCA), agreed on 24 December 2020, marks an important milestone in the long history of fisheries relations in the North-east Atlantic. The agreement maintains full reciprocal access to waters until 30 June 2026. Part of the EU quota shares, considered to represent 25 % of the value of the EU landings from UK waters, will be gradually transferred to the UK during this period. After 1 July 2026, access to waters will be decided in annual consultations. The quota shares will remain stable at the 2025 level, and cannot be changed without the mutual consent of the parties. One party restricting access to waters may lead to compensatory measures from the other, such as suspending tariff concessions for fisheries products. Further remedial measures for breaches of the fisheries agreement may lead to the suspension of preferential tariffs for other goods, and to partial or full suspension of the trade section. The EU-UK TCA ensures that trade in fisheries and aquaculture products continues without tariffs. However, non-tariff measures, such as certification requirements and customs controls, associated with the UK leaving the EU single market, will involve slower and more expensive trade flows.

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1. Fishing rights in the North-east Atlantic

1.1. From free access to sovereignty over waters

For centuries, marine fishing has developed based on the idea of free access to fish resources. Nations with a strong maritime culture have traditionally exploited fish stocks in remote ocean areas, particularly in the North-east Atlantic.¹ English boats were fishing for cod off Norway and Iceland around 1400, and by the end of the fifteenth century, clashes were reported between naval forces escorting the English fishing fleet and the Hanseatic League's armed fleet from Hamburg. In the 1500s, the rich cod fishing grounds of Newfoundland attracted fishermen from France, Portugal and, later, England. 'Up to the middle of the sixteenth century the herring fishery on the British coasts was left in the hands of the Dutch and Spaniards', wrote a Victorian author in 1892. Almost equidistant from England, France, Holland, Germany and Denmark, Dogger Bank in the central North Sea was fished by people from all these nations in the early nineteenth century.²

The principle of a coastal state extending its sovereignty seawards started to make headway at the beginning of the 1700s, with the wide acceptance of the concept of territorial waters of three nautical miles from the shore – the distance that could be protected by cannon shot.³ The three-mile limit remained largely in place until after the Second World War, when international pressure increased to expand coastal state jurisdiction.

In 1964, western European countries signed the London Fisheries Convention, which extended their fishing rights in territorial waters to 12 miles along their Atlantic and North Sea coasts (Figure 1).⁴ While establishing coastal states' exclusive rights within a belt of 6 miles, the London Convention also recognised the historic fishing rights of other countries, allowing them to continue fishing in the zone between 6 and 12 miles, if their vessels had habitually fished in that area in previous years (i.e. in 1953-1962). Beyond territorial waters, fishing was not restricted. Member States of the EU-6 of the time fished mainly beyond their 12-mile waters, where an estimated 90 % of their catch was located. A significant part of the EU-6 catch came from the waters off the UK and Ireland.⁵

1.2. The UK and the common fisheries policy

The perspective of the potential accession of the UK, Ireland, Denmark and Norway – all countries with strong fishing interests, prompted reconsideration of EU fisheries rules. In 1970, the EU-6 introduced the first elements of a common fisheries policy (CFP), distinct from, but still in line with the mechanisms of the agriculture policy of which fisheries had been part. It was structured around two components: establishing a common market for fisheries products, and providing financial assistance for the modernisation of the fishing industry. At the same time, the EU-6 adopted the principle of free access for Member States to fisheries resources in each other's waters.

The UK became a Member State on 1 January 1973, along with Ireland and Denmark, accepting the fisheries rules as part of the '*acquis*', but negotiating a 10-year derogation to the principle of equal

¹ In this briefing, 'North-east Atlantic' is used in the broad sense, including the North Sea.

² C. Roberts, *The unnatural history of the sea*, Island Press, 2007; G. Hartwig, *The Sea and its Living Wonders*. Longmans, Green and Company, 1892, in C. Roberts, 2007.

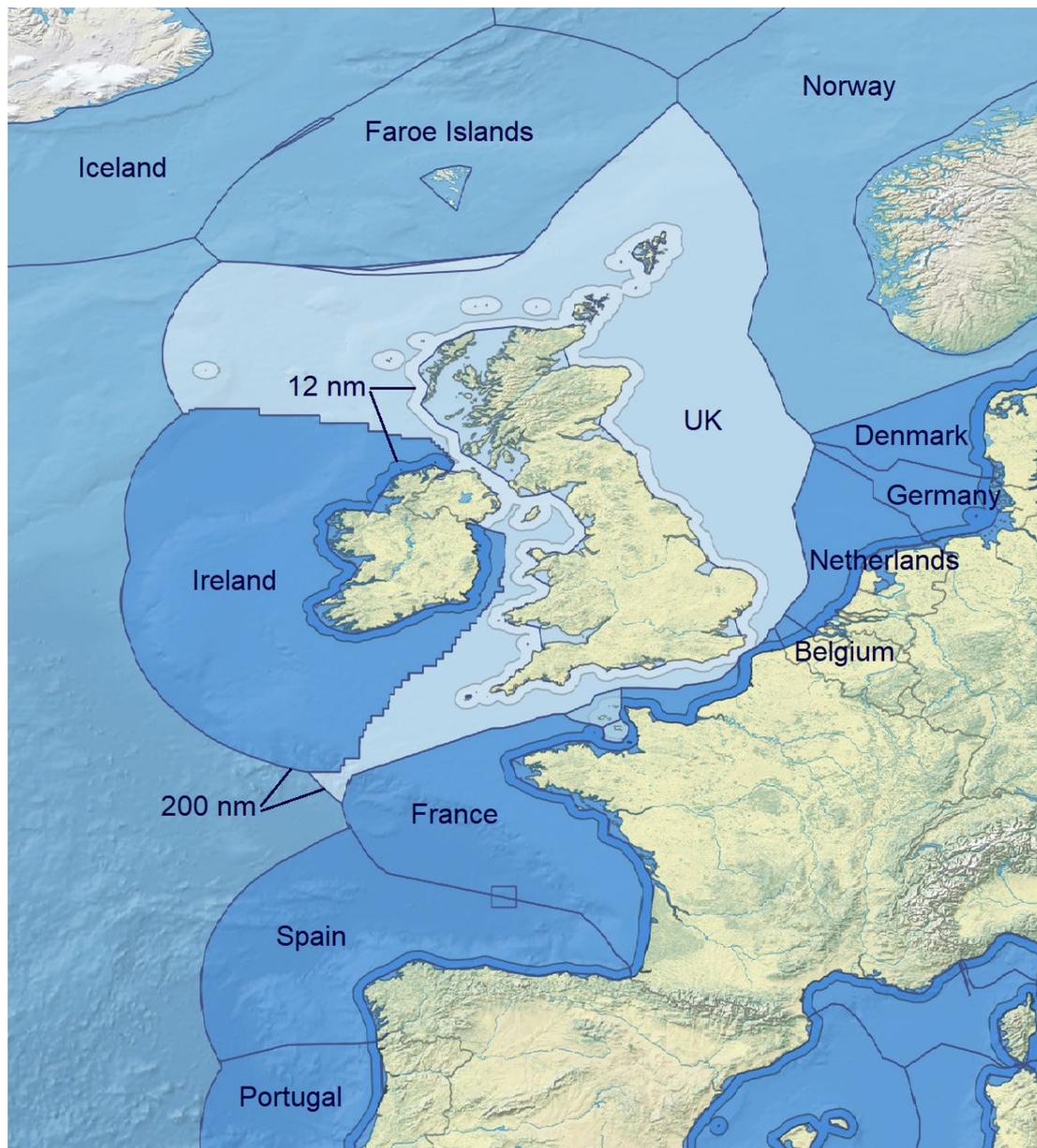
³ A nautical mile (nm) measures distances at sea and is equal to 1 852 metres.

⁴ [Fisheries Convention](#), London, March-April 1964.

⁵ E. Penas Lado, *The common fisheries policy: the quest for sustainability*, Wiley Blackwell, 2016.

access, to reserve its 12-mile zone for the national fishing fleet. Norway rejected EU accession, a decision in which fisheries considerations played a significant part.

Figure 1 – UK and EU territorial waters (0-12 nm) and exclusive economic zones (12-200 nm)



Data source: [Maritime Boundaries Geodatabase](#) (consulted on 9 December 2020), [Natural Earth](#).

The growing trend of unilateral action by different countries around the world to claim sovereignty over fisheries beyond 12 miles had a major impact on long distance fishing. In the northern Atlantic, Iceland's declaration of an exclusive economic zone (EEZ), extending for 200 miles in 1975, resulted in the expulsion of foreign fleets, mainly British, German and French, and led to the last 'cod war' with the UK. Following this international trend, the nine Member States of the time agreed on a concerted extension of their jurisdiction along the Atlantic and North Sea coasts as of 1 January 1977, from 12 to 200 miles (or to the median lines with other coastal states). The

declaration of the EEZ gave Member States jurisdiction over new fisheries resources, open to all Member States under the principle of equal access (Figure 1).⁶

The allocation of fishing rights for these common resources among Member States proved extremely difficult. Establishing a formula to share them took six years of tough negotiations, and repeated invocation of 'vital national interest' in blocking majority decisions, through the application of the otherwise rarely used 'Luxembourg compromise' of 1966.⁷ The formula finally agreed was based on a system of catch limits decided annually by the Council and termed total allowable catches (TACs). It consisted of sharing the allowed catch among Member States in national quotas according to fixed percentages, stable over time, and came to be known as 'relative stability'.

Calculation of the relative stability keys (i.e. the percentage of each stock allocated to each Member State) was based mainly on historical catches between 1973 and 1978. However, the UK requested compensation for its loss of fishing opportunities in Icelandic waters, and for the special needs of coastal communities strongly dependent on fishing, particularly in Scotland. To take these factors into account, a compensation system was set up. This system, known as 'the Hague preferences', guaranteed the UK (as well as Ireland and Greenland) a minimum quota of certain stocks if the agreed TAC was very low, and has been regularly applied as part of the 'relative stability'.

To counterbalance the rigidity of the fixed allocation keys, the relative stability mechanism also included the possibility for Member States to exchange quotas. Termed 'quota swapping', this became common practice, reaching an order of magnitude of 2 000 per year in recent times.

'Relative stability', often criticised for its static, conservative approach to management of a diverse and dynamic resource, has nevertheless shown remarkable resilience over time. Despite the many changes that intervened since its introduction in 1983 – more Member States, more fish stocks managed and more allocation keys, its basic structure has remained practically unchanged.⁸

The agreement on 'relative stability' set the stage for the 1983 adoption of the core part of the CFP – the conservation and management of the common fisheries resources. As regards access to the 12-mile territorial waters, the CFP incorporated the provisions of the London Convention, allowing coastal states to reserve access to the first 6 miles for their nationals, while maintaining the historic rights of other Member States in the 6-12 mile zone. This represented a derogation to the principle of equal access, agreed initially for a 10-year period, but maintained ever since and renewed with each CFP reform. The foreign fishing rights in the 6-12 mile zone have concerned specific areas in British coastal waters, where vessels from Belgium, France, Germany, Ireland and the Netherlands could continue their activities. British vessels also retained their access rights to certain coastal areas of France, Germany, Ireland and the Netherlands.

Ever since the origins of the CFP, the UK fishing industry has argued that its interests were sacrificed in return for favourable conditions for accession, and that the UK share of the common fisheries resources was disproportionately small compared to the extent of its waters. 'Relative stability' came to be perceived as a way of perpetuating the injustices of the original allocation of fishing opportunities and the reliance of other Member States on UK waters.⁹ Decades later, the fishing

⁶ The EEZ concept was established in international law by the United Nations Convention on the Law of the Sea (UNCLOS), which was adopted in 1982 and entered into force in 1994.

⁷ On the Luxembourg compromise, see e.g. [The Council of the European Union, 1952–2012: Sixty years of law and decision-making](#), 2013, p. 12.

⁸ E. Penas Lado, *The common fisheries policy: the quest for sustainability*, Wiley Blackwell, 2016.

⁹ J. Phillipson, D. Symes, ['A sea of troubles': Brexit and the fisheries question](#), *Marine Policy* Vol. 90, 2018, pp. 168-173.

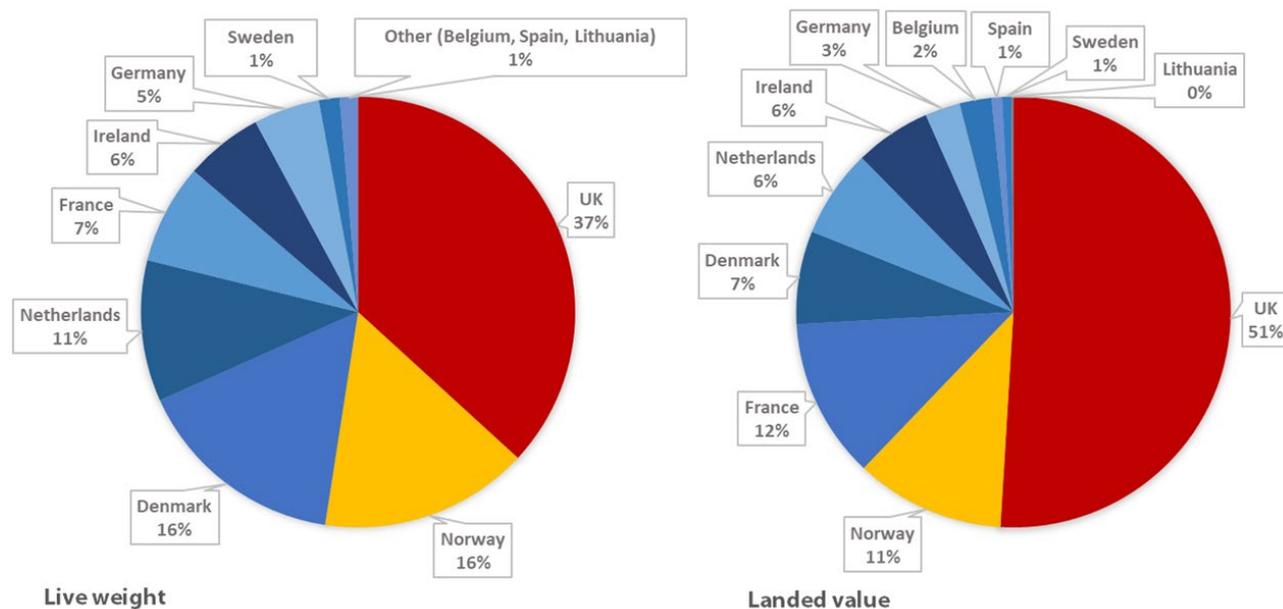
community's deep sense of grievance resonated with the rhetoric of the Brexit campaign, and the sector became a potent symbol of the UK 'taking back control'.

2. Landings from UK waters

Under the CFP, fishing boats from a Member State can fish in the waters of another Member State as long as they have quotas allocated under 'relative stability'. In addition, for a variety of species quotas are not established, for example those fished mainly in coastal waters.

The now familiar claim of the UK referendum campaign, that EU vessels take more fish from UK waters than UK vessels, is correct – at least in terms of weight. The EU-27 fleets indeed were responsible for the largest share of the landings from UK waters – 48 %, corresponding to an estimated 706 000 tonnes of fish on average over 2012-2016 – whereas the UK landed 546 000 tonnes, representing 37 % of the total. In addition, Norway landed most of the remainder, on average 231 000 tonnes for 2013-2016 (Figure 2).^{10 11} In terms of value, however, the share of the UK landings was significantly higher at 51 %, with EU vessels taking 38 % and Norwegian vessels 11 %. This is mainly due to EU vessels landing large quantities of lower-value fish (e.g. herring, sandeels and blue whiting), while UK vessels landed considerably more high-value species (such as shellfish and haddock).

Figure 2 – Landings from UK waters, by country, in terms of live weight (left) and landed value (right)



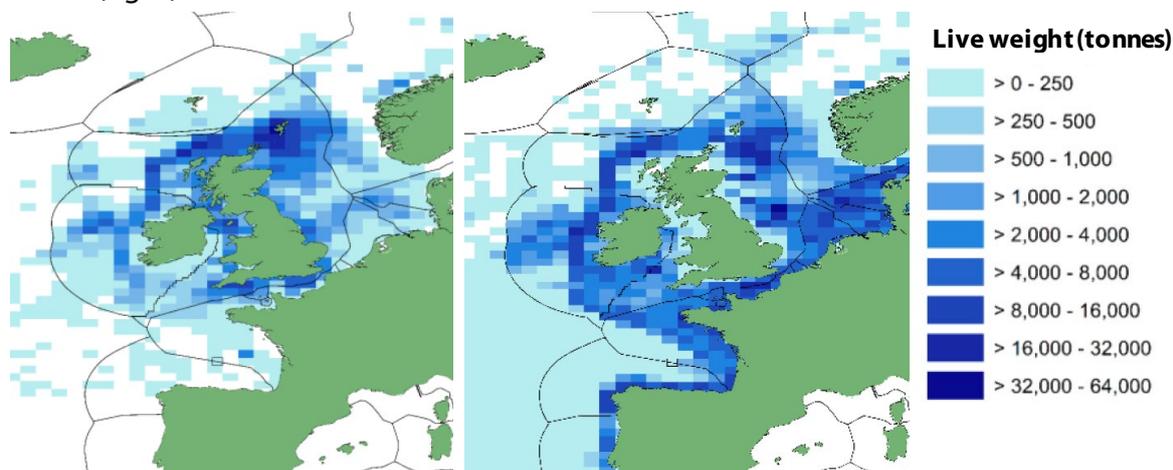
Data source: Marine Management Organisation, [United Kingdom commercial sea fisheries landings by Exclusive Economic Zone of capture 2012-2019](#), 2020.

¹⁰ Faroese vessels also land smaller volumes of fish from UK waters (not included here).

¹¹ This section is based on 2012-2016 average landings data from the UK Marine Management Organisation, [United Kingdom commercial sea fisheries landings by Exclusive Economic Zone of capture 2012-2019](#), 2020. It is complemented with 2015-2018 data from the Joint Research Centre technical report by A. Zanzi, C. Konrad, M. Gibin, J. Guillen, N. Carvalho, J. Martinsohn, Joint Research Centre (JRC) Technical report – [Landings by the EU Member States from the UK EEZ and by the United Kingdom from the EU-27 and UK EEZs: 2015-2018](#), Publications Office of the European Union, 2021.

The EU Member States that landed the largest quantity of fish in 2012-2016 were Denmark (with around 16 % of total landings from UK waters) and the Netherlands (11 %), followed by France (7 %), Ireland (6 %) and Germany (5 %). The other Member States fishing in UK waters were Sweden, Belgium, Spain and Lithuania, which together landed less than 3 % of the total live weight.¹² France alone, targeting higher value demersal species, landed around one third of the value of the EU-27 landings and 12 % of the total value of the landings from UK waters. Landings by EU fleets from Denmark, the Netherlands and Ireland followed.

Figure 3 – Landings in the North-east Atlantic by fishing vessels from the UK (left) and EU-27 (right)



Source: UK Marine Management Organisation, [United Kingdom commercial sea fisheries landings by Exclusive Economic Zone of capture 2012-2018](#), 2019. The landings are indicated by the International Council for the Exploration of the Sea (ICES) statistical rectangle.

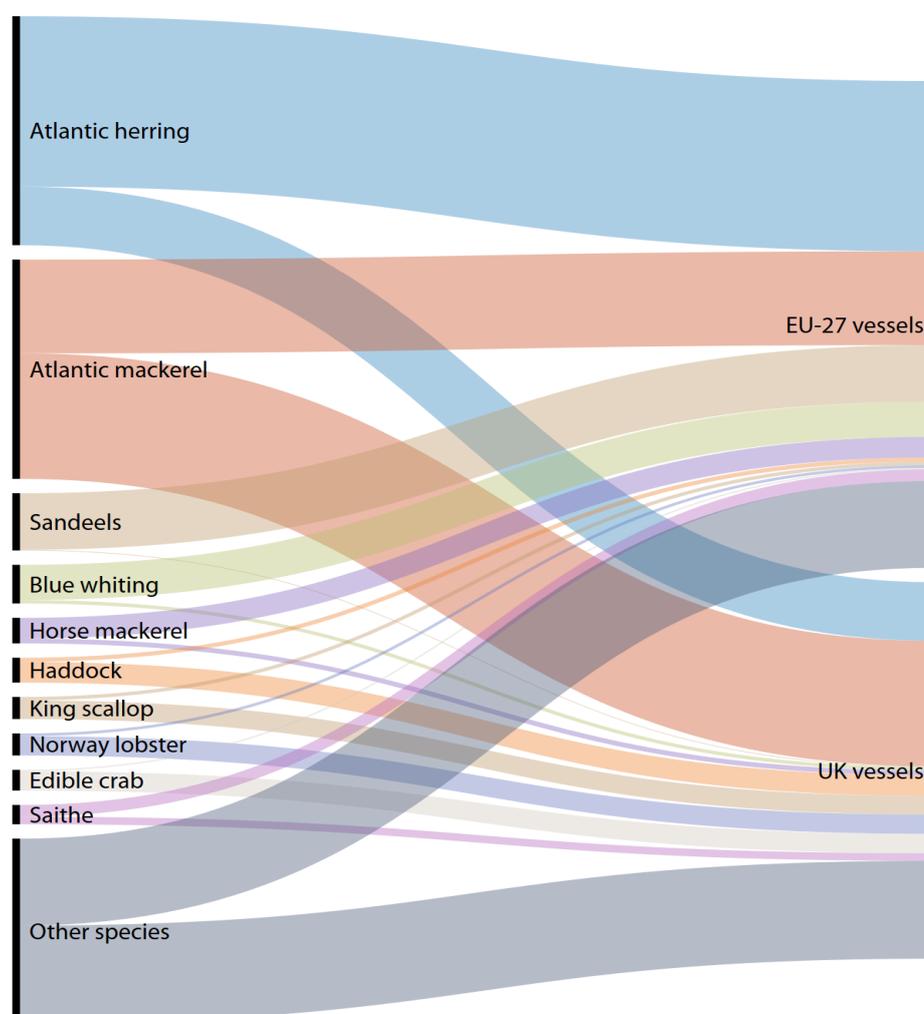
UK fishing vessels mostly operate in UK waters, where they fish around 80 % of their landings (Figure 3, left). A majority of these landings originate in Scottish waters. Of the UK landings from EU-27 waters, more than two-thirds came from the Ireland EEZ, with the remainder from France, Denmark, Germany and the Netherlands. In contrast, EU-27 fishing activities were more evenly distributed across EU, UK and Norwegian waters, in an area largely corresponding to the continental shelf (Figure 3, right). EU landings from UK waters represented 29 % of the weight of their total landings from the North-east Atlantic, and 23 % of the total value. The fleets most dependent on fisheries in UK waters are from the Netherlands (with 53 % of their total landings' weight and 30 % of the total value), and Belgium (43 % in both weight and value). Other Member States also fished significant parts of their landings in British waters: Germany (41 % in weight and 22 % in value), Denmark (38 % in weight and 30 % in value), Ireland (36 % in weight and 33 % in value), and France (25 % in weight and 18 % in value). The different UK and EU geographical patterns are reflected in their respective landings, which were much higher for EU landings from UK waters (802 000 tonnes, worth €636.7 million), than for UK landings from EU waters (91 600 tonnes, worth €109.4 million).¹³

¹² Poland also fished sporadically in UK waters in 2017-2018, as well as, to a lesser extent, Portugal (Zanzi et al., 2021).

¹³ 2015-2018 data from Zanzi et al. (2021). For a comparison, the figures based on the 2012-2016 dataset from Marine Management Organisation (2020) indicate relatively similar dependency levels (in weight): the Netherlands (52 %), Belgium (45 %), Denmark (37 %), Ireland and Germany (34 %), and France (29 %). The EU landings from UK waters are 706 000 tonnes (GB£493 million), and the UK landings from EU waters are 94 000 tonnes (GB£106 million).

Herring and mackerel are by far the most important species landed from UK waters, and cover around half of the cumulated UK and EU landings (52 %, Figure 4). Targeted by both UK and EU fishing vessels, they also represented roughly half of the landings by the UK and the EU considered separately (49 % and 54 % respectively in 2012-2016). Whereas the EU landed more herring (74 % of the cumulated weight of EU and UK herring landings), the UK had a larger share of the mackerel landings (57 %). With the exception of these two species, the EU and UK landings had rather distinct profiles. The EU landings were dominated by other small pelagic species: sandeels (of which it takes 99 % of the total weight landed from UK waters), blue whiting (91 %) and horse mackerel (81 %). The largest UK landings mainly consisted of demersal fish and shellfish: haddock (83 % of the total weight of the haddock landings) and Norway lobster (88 %); along with non-quota species mainly fished in coastal waters – king scallop (84 %) and edible crab (93 %). Landings of other species were split quite evenly overall, but included species more important in terms of landed value, such as anglerfish and cod, which were fished mainly by UK vessels, and common sole, harvested more by EU vessels.¹⁴

Figure 4 – Landings of UK and EU-27 vessels from UK waters, by species (live weight)



Data source: Marine Management Organisation, [United Kingdom commercial sea fisheries landings by Exclusive Economic Zone of capture 2012-2019](#), 2020.

¹⁴ Marine Management Organisation, 2020; B. Le Gallic, S. Mardle, S. Metz, '[Brexit and fisheries: A question of conflicting expectations](#)', *EuroChoices* 17/2, 2018.

A high proportion of the apparent disparity between EU and UK landings from UK waters is due to only a few species: herring, mackerel, sandeel, blue whiting and horse mackerel. Mackerel, blue whiting and horse mackerel are migratory species, moving over long distances across different EEZs, but for economic and biological reasons, much of the landings are fished in the UK's EEZ. Herring, especially in the North Sea, is mainly harvested in a period of the year when it is highly aggregated, which happens to occur in UK waters. Sandeel is fished primarily by the industrial Danish fleet for animal and aquaculture feed, and has never been a significant UK fishery.¹⁵

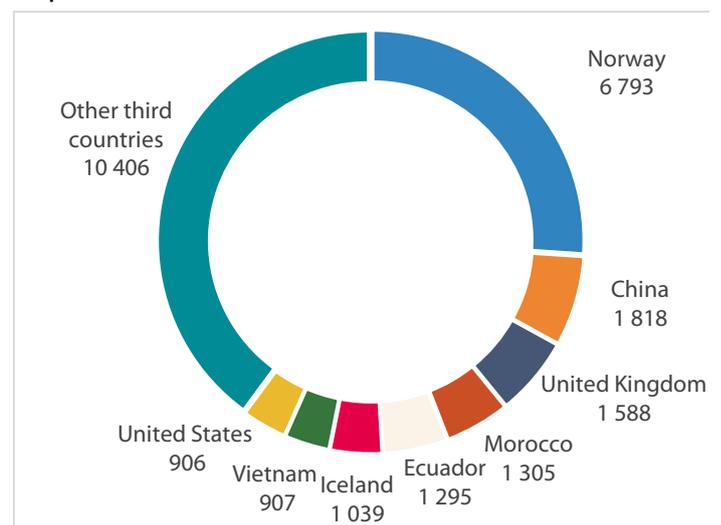
Fishing industry flows are complex, with vessels registered in one country landing their catches at the closest port in different countries. In 2019, EU vessels landed 34 926 tonnes of fish in UK ports, i.e. 8 % of all fish landings in the UK. Meanwhile, UK vessels landed around 143 738 tonnes, around 23 % of all fish landed by UK vessels, in EU ports, mainly in the Netherlands, Ireland and Denmark.¹⁶

3. EU-UK trade in fishery and aquaculture products

3.1. Market and trade in figures

Fishery and aquaculture products are one of the most traded products in the world and, by far the biggest importer of such products, the EU is the first and most attractive market. Global exports increased between 1976 and 2018 at a growth rate of 4 % in real terms (in value, adjusted for inflation) and in 2018, about 67 million tonnes, or 38 % of the total production was traded internationally, by a total of 221 countries.¹⁷ In 2018, total EU consumption (including the UK) amounted to 24.4 kilogrammes per capita. With a self-sufficiency of only 42.5 %, the EU relies mainly on imports and has a trade deficit of about €21 billion, a value that grew 33 % in real terms from 2010 to 2019.¹⁸ In trade policy, it is important to note that fish catches are considered 'specific', given that the criterion for production and trade is not necessarily linked to the origin of the good but to the ownership of the catching vessel. For example, fish caught by an EU vessel outside EU waters and landed in a port in a third country is considered an export from that Member State to the country of landing.

Figure 5 – Share of the 8 main non-EU suppliers of fishery and aquaculture products in terms of EU import value (2019 data, € million)



Data source: [Comext](#) (2019 data, as of 2 April 2020).

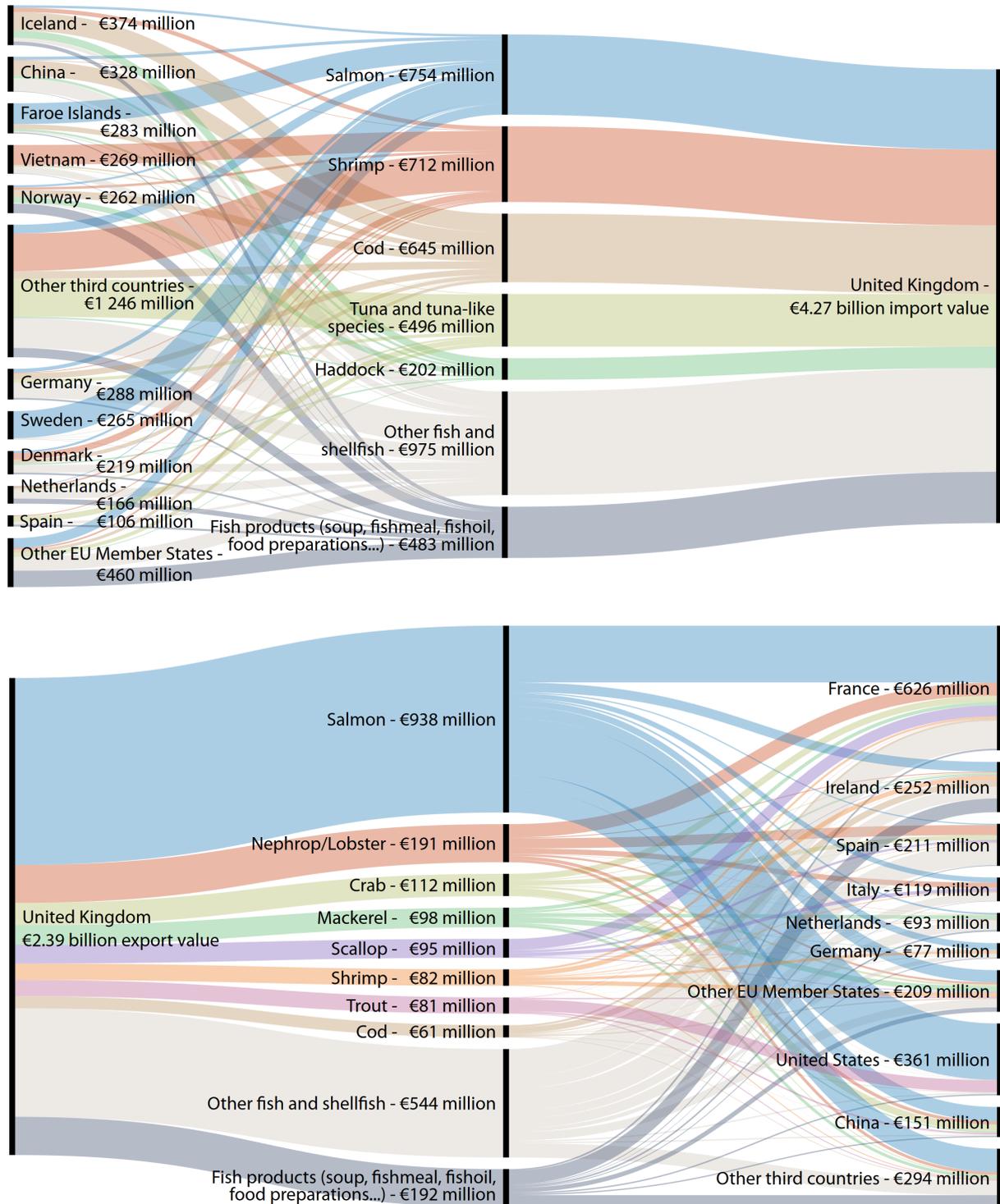
¹⁵ M. Heath, R. Cook, [Risks to North Sea fish stocks and wildlife if post-Brexit fishery negotiations fail to reach agreement on quotas and access to UK waters](#), University of Strathclyde, 2020.

¹⁶ Marine Management Organisation, [UK sea fisheries annual statistics report 2019](#), 2020.

¹⁷ Food and Agriculture Organization of the United Nations (FAO), [The state of world fisheries and aquaculture](#), 2020.

¹⁸ European Market Observatory for fisheries and aquaculture (EUMOFA), [The EU Fish Market](#), 2020.

Figure 6 – UK import and export fishery and aquaculture products by trading partner country and species category (2019 data)



Data source: [Comext](#) (2019 data, as of 2 April 2020).

Considering the UK as a third country, non-EU imports of fishery and aquaculture products into the EU-27 reached about €26.1 billion in terms of value in 2019, while exports from the EU-27 into

non-EU countries reached about €6.9 billion.¹⁹ The UK is the third largest supplier to the EU in terms of value (Figure 5), accounting for 6 % of all EU imports, after Norway (26 %) and China (7 %).

The UK is equally a net importer of fishery and aquaculture products, importing about €4.3 billion and exporting about €2.9 billion in terms of value in 2019 (Figure 6).²⁰ The value imported from the EU is 35 % of the total UK import value, whereas 65 % of the value is imported from third countries (with Iceland, the Faroe Islands and Norway in the north, and China and Vietnam in Asia being important suppliers). Due to the size of its processing sector, Germany is the most important EU supplier to the UK, importing mostly raw materials from the UK and providing the UK with processed products.²¹

Looking at total UK imports and exports, salmon is clearly the most traded product. With regard to the salmon trade flows, Sweden in particular acts as an entry point for Norwegian salmon in transit to other countries, while the same is true for Faroese salmon, which transit via the UK to the EU-27.²² The large salmon flows from Sweden and the Faroe Islands to the UK must therefore be interpreted in this context. Similarly, on the export side, much of the UK-produced salmon is dispatched via France to other EU Member States.

The main species imported by the UK in terms of value reflect British consumer tastes. Salmon is by far the most consumed species in the UK (for which the UK is a net exporter), followed by shrimp (and prawns), cod and haddock (the most commonly used species in 'fish and chips'), and tuna. Together these species represent some 80 % of all fish consumption in the UK.²³

On the other hand, the UK exports on average about 60-80 % of its domestic production.²⁴ The statement that the UK imports most of what it consumes and exports most of what it catches is therefore largely correct. Of the total UK export value in 2019, about two-thirds goes to the EU, with France as the main destination, followed by Ireland. If products manufactured from fish are not taken into account, Spain becomes the second most important destination.²⁵ The United States of America is the most important UK export market outside the EU, importing almost exclusively salmonids (salmon and trout). Overall, the species most exported are salmon, lobsters (mostly Norway lobster or 'Nephrops', of which two-thirds of the export value goes to France and Spain), crabs, mackerel and scallops (of which more than half of the export value goes to France).

¹⁹ All data included in this publication on imports and exports are based on Eurostat's reference database on international trade in goods (Comext), which can be queried via the Eurostat table DS-016890. Eurostat-Comext is also the source used by the European Market Observatory for fisheries and aquaculture (EUMOFA) for trade statistics.

²⁰ Please note a very wide range of 'fish products' is included here, corresponding to the items categorised in EUMOFA under the commodity groups 'Miscellaneous aquatic products' and 'Non-food use' (including items such as soups, food preparations, fishmeals, fish oils, surimi, fish waste, and seaweed, for example.). National trade statistics published by the UK are based on a more limited set of fish products (in particular fishmeals and fish oils).

²¹ Scientific, Technical and Economic Committee for Fisheries (STECF), [The EU Fish Processing Sector](#), JRC, 2019, p. 34.

²² Food and Agriculture Organization of the United Nations (FAO), [The state of world fisheries and aquaculture](#), 2020; [Common Fisheries Policy and BREXIT - Trade and economic related issues](#), Policy Department for Structural and Cohesion Policies, European Parliament, 2017 and APBMer, [Seafood Trade Modelling Research Project - Assessing the Impact of Alternative Fish Trade Agreements Post EU-Exit](#), Marine Scotland, 2018.

²³ Tetley S., [Why the Big 5? Understanding UK Seafood Consumer Behaviour](#), University of Kent, 2016.

²⁴ Uberoi E., Hutton G., Ward M., Ares E., [UK Fisheries Statistics](#), UK House of Commons Library, 2020.

²⁵ Ireland imports a relatively large amount of fish products from the UK, in the wide definition used by EUMOFA, worth €64.2 million in 2019 (of which more than half is 'Flours, meals and pellets of fish or crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption').

3.2. Trade arrangements

Until the end of 2020, the UK complied with all EU rules and laws (with some exceptions) as if it was still a Member of the EU, with negligible impact on business and trade. However, since 1 January 2021, trade between the EU and the UK is subject to bilateral trade arrangements in the same way as trade between the EU and any other third country. These trade arrangements include both agreements on the suspension of import duties (tariffs) and the implementation of import requirements (known as non-tariff measures or 'NTMs'). The sections below provide a general overview of the different tariff regimes and NTMs in place for the import of fishery and aquaculture products from third countries into the EU.

Import duties

Tariffs for importing fishery and aquaculture products into the EU can be divided into four main categories:

- autonomous tariff quotas to guarantee adequate supply to the EU,
- the generalised system of preferences for developing countries,
- preferential tariffs following trade agreements,
- most-favoured-nation (MFN)²⁶ tariffs for World Trade Organization (WTO) members.

The EU tariff quotas for fishery and aquaculture products are mainly intended to enable an adequate supply of raw materials to the EU fish processing industry. To this end, the EU unilaterally suspends or reduces import duties for a number of fishery products until 'tariff quotas' are exhausted. The fishery products affected by the autonomous EU tariff quotas for 2021-2023 are published in the ATQ Regulation.²⁷

Developing countries may benefit from preferential tariffs under the generalised scheme of preferences (GSP),²⁸ a set of rules allowing exporters from developing countries to pay lower duties on some or all of their exports to the EU.

Various trade agreements between the EU and (groups of) third countries involve preferential tariffs for fishery and aquaculture products. Norway and Iceland, members of the European Economic Area (EEA) and important seafood suppliers, also benefit from preferential tariffs.²⁹

If the EU imports fishery and aquaculture products from a WTO member country with which it does not have a trade agreement in place, the country in question cannot benefit from the GSP and these imports are not covered by available autonomous tariff quota, then the usually higher WTO MFN tariffs are applied. The European Commission updates these tariffs annually through an Implementing Regulation.³⁰

²⁶ [MFN \(most favoured nation\) tariff](#), World Trade Organization website.

²⁷ [Council Regulation 2020/1706](#) on opening and providing for the management of autonomous Union tariff quotas for certain fishery products for 2021-2023.

²⁸ [Generalised Scheme of Preferences \(GSP\)](#), European Commission website.

²⁹ The EEA does not cover fisheries, so Norway and Iceland do not benefit from entirely free trade with the EU. However, general provisions on tariff liberalisation for fish products is regulated via [Protocol 9](#) to the EEA agreement, while further tariff preferences are set out in bilateral trade agreements with the EU.

³⁰ [Commission Implementing Regulation \(EU\) 2020/1577](#) amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.

Non-tariff measures

Apart from import duties, NTMs address societal concerns such as fair competition, environmental protection and human health issues. Fishery and aquaculture imports in particular are subject to both EU food hygiene legislation and requirements under the CFP.

The EU food hygiene legislation implies that imports of seafood must meet EU sanitary and phytosanitary requirements.³¹ These requirements constitute a major field of non-tariff barriers, through certification requirements and border checks, and protect against the risks arising from the entry of diseases and those arising from additives in food and beverages. Under these rules, fishery and aquaculture consignments can only be imported into the EU if they come from a country on the list of approved countries and from an approved establishment inside that country.³² Formal recognition by a competent authority – responsible for maintaining an up-to-date list of approved establishments and ensuring credible inspection and controls throughout the production chain – is a pre-requisite for a country to export to the EU. Fishery and aquaculture products must be accompanied by an export health certificate issued by the competent authority in the exporting third country, certifying that the products in question are in conformity with EU food legislation. Furthermore, imports must enter the EU via an approved border inspection post and are subject to document and identity checks, as well as possible physical checks. However, Norway and Iceland are fully harmonised with EU food hygiene legislation through the EEA Agreement, meaning their fish and fish products can be imported into the EU without undergoing veterinary border controls.

In addition, requirements under the CFP cover marketing standards and labelling requirements for fishery and aquaculture products.³³ The marketing standards are aimed at defining uniform characteristics for all products intended for human consumption in the EU, regardless of their origin – which means they also apply to imported fish. They facilitate marketing based on fair competition and include freshness and size categories and trade descriptions.³⁴ On the other hand, labelling requirements are aimed at informing consumers so that they can make better choices when buying fish. These go beyond the requirements for other food products, and include the commercial designation of the species and the catch area and fishing gear used in case of catches. As announced in the Farm-to-Fork Strategy,³⁵ in 2022 the European Commission will also launch a new proposal to harmonise the mandatory front-of-pack nutrition labelling to enable consumers to make health-conscious

Example of tariff regimes

For the 'Shrimps and prawns of the species *Penaeus*, fresh, chilled or frozen, not cooked, for processing' product (under CN codes 03061792 and 03063690), the autonomous EU tariff is set at 0 % until an annual import quota of 48 000 tonnes is reached. Beyond this amount, the WTO MFN tariff is set at 12 %, which applies to Thailand for instance. Developing countries such as India enjoy the GSP tariff of 4.2 %. Vietnam however enjoys a 0 % tariff since 1 August 2020, following the conclusion of the EU-Vietnam Free Trade Agreement.

³¹ [Sanitary and phytosanitary requirements](#), European Commission website.

³² In the case of fisheries, the establishment can also be a factory or freezing [vessel](#).

³³ The regulation on the common organisation of markets in fishery and aquaculture products (the '[CMO Regulation](#)'), defines the general objectives of the common marketing standards, whereas three specific Council Regulations spell out their details.

³⁴ The European Commission is currently carrying out a [consultation](#) on these standards in view of a revision of the existing regulations. Since a previous [evaluation](#), trade in seafood products has evolved and imports (particularly farmed fish and processed products) from non-EU countries, which are not covered by EU standards, have increased.

³⁵ A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system, [COM\(2020\) 381](#), European Commission, May 2020.

food choices. Imported fishery products must also be accompanied by a catch certificate, in line with the regulation on illegal, unreported and unregulated fishing (the IUU Regulation),³⁶ to ensure their full traceability and to prevent the import of products originating from illegal fishing activities. As part of the revision of the EU's fisheries control system, paper-based catch certificates will be replaced by the mandatory use of digitalised catch certificates, which will strengthen the fight against IUU fishing.

4. Brexit: Issues at stake

The UK voted to leave the EU in a referendum on 23 June 2016. Fisheries played a prominent role in the Brexit campaign, widely seen as a policy area where there was much to gain, mainly by restricting EU vessels from fishing in UK waters, and little to lose.³⁷ The following year, on 3 July 2017, the British government gave notice of the UK's withdrawal from the 1964 London Fisheries Convention, which came into effect two years later.³⁸ Although the convention was widely considered as superseded by the CFP, this withdrawal provided a clear signal of the UK's intention to fully control its waters after leaving the EU.

The UK submitted the notification of its intention to withdraw from the EU on 29 March 2017. The withdrawal was expected to enter into force two years later, but several extensions were agreed on 22 March, 10 April and 29 October 2019. The UK left the EU on 1 February 2020, under the terms of the Withdrawal Agreement³⁹ and the associated Political Declaration,⁴⁰ and entered a transition period, which ran until 31 December 2020.⁴¹

As of 1 January 2021, the UK is an independent coastal state, taking full responsibility for all aspects of fisheries management in its EEZ. A new Fisheries Act,⁴² adopted on 23 November 2020, sets out the legal framework for British fisheries – and the CFP, including its principle of equal access, no longer applies. Nevertheless, the UK still has a responsibility to cooperate with the EU on management of almost 100 fish stocks that straddle the EU-UK maritime boundary, and to limit disruption to existing fishing activities. Indeed, under the United Nations Convention on the Law of the Sea, coastal states must cooperate in the conservation and management of shared stocks, and are obliged to minimise economic dislocation in states whose nationals have habitually fished in the zone, or which have made substantial efforts in research and identification of stocks.⁴³

The UK's Brexit decision has caused a high degree of uncertainty for the fisheries sector. Its potential consequences have been intensely discussed ever since the referendum vote, considering a wide range of scenarios, including the high risks of a lack of agreement on fisheries. Put simply, this involved an (immediate or delayed) impact on access to fishing grounds for both EU and UK vessels

³⁶ I. Popescu, [Illegal, unreported and unregulated](#), EPRS, European Parliament, November 2017.

³⁷ House of Lords – European Union Committee, [Brexit: fisheries](#), 2016.

³⁸ UK takes key step towards fair new fishing policy after Brexit, [press release](#), UK Government, 2 July 2017.

³⁹ [Agreement](#) on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

⁴⁰ Political declaration setting out the framework for the future relationship between the European Union and the United Kingdom, [2019/C 384 I/02](#).

⁴¹ For a detailed Brexit timeline, see CC. Cirlig, A. D'Alfonso, I. Hallak, H. Mildebrath, M. Russell, F. Scholaert, J. Soone, C. Stamegna, J. Titievskaja, A. Wilson, [EU-UK Trade and Cooperation Agreement: An overview](#), EPRS, European Parliament, February 2021.

⁴² [Fisheries Act 2020](#), UK Government.

⁴³ Articles 62 and 63 of [UNCLOS](#), and UNCLOS [implementing agreement](#) on the conservation and management of straddling and highly migratory fish stocks.

(but mostly hitting the EU fleet), and the trade in fisheries products becoming subject to tariffs and/or NTMs and risking customs delays (mainly affecting UK exports). Several aspects of the issues at stake are outlined below.

4.1. Fishing

The UK EEZ has long been a central part of EU's North-east Atlantic fishing grounds, in both geographic and economic terms, and the new boundary cuts across longstanding relationships. The EU fishing sector has developed for decades based on the assumption of free access to shared waters, including those around the UK. As such, the fishing fleets of several Member States are highly dependent on the British EEZ –the Netherlands, Belgium, Germany, Denmark and Ireland in particular, all of which harvest more than 30 % of their North-east Atlantic landing weight from UK waters. France is also particularly exposed, due to the high value of its landings from UK waters, and its position as the main market for UK fishery products. Its northern regions take the brunt of the Brexit impact, in particular Haut de France, where almost 60 % of all landings (by weight) are harvested in British waters, as well as Normandy and Brittany.⁴⁴ The European Fisheries Alliance estimated that termination of EU fishing rights in UK waters would lead to a reduction in the net profit for the fleets concerned of about 50 %, to a decrease in fleet size and to the loss of at least 6 000 full-time jobs in fishing and the sectors depending on it, impacting the many local communities dependent on fishing on the EU's western coast.⁴⁵

An additional complication is the existence of vessels registered in the UK, but owned by EU fishing interests (mainly from the Netherlands and Spain), and holding UK fishing quotas. These vessels would be affected by changes to the British rules on limiting registration of vessels in the UK, losing their access to British waters. Dutch companies hold important quotas for certain stocks of herring and mackerel, as well as more limited quotas for demersal flatfish in the North Sea. Spanish companies own quotas for demersal fish such as megrim, monkfish and hake. A number of fishing vessels also operating under UK flag are owned by mixed companies set up in the Falkland Islands with EU capital from Spain, with crew estimated at 500-600 EU nationals.⁴⁶

The Brexit campaign rhetoric created great expectations for a substantial increase in fishing opportunities for the UK industry. It supported the image of a beacon of hope for the UK fisheries sector, considered at a disadvantage under the CFP and expected to generally benefit from the 'sea of opportunity' that Brexit offered.⁴⁷ However, more in-depth analysis of various Brexit scenarios has shown that this view oversimplifies the much more nuanced situation of a sector with diverse and sometimes divergent interests, including specific parts highly exposed to negative effects. While an increase in fishing quotas benefits quota holders (usually large vessels), small-scale vessels under 10 metres, which make up 77 % of the UK fishing fleet, hold only 1.5 % of the quota. These smaller vessels mostly fish non-quota species (e.g. shellfish) in inshore waters, and an increase in fishing rights in the 200-mile EEZ is largely irrelevant to their activities. Moreover, their landings are mostly exported to the EU, and the UK withdrawal exposes them to increased tariffs and NTMs. Continued

⁴⁴ Assemblée Nationale, [Rapport d'information sur la pêche européenne dans le contexte post-Brexit](#), 2020.

⁴⁵ [What would Brexit mean for European fishing fleets?](#) European Fisheries Alliance website.

⁴⁶ Common Fisheries Policy and Brexit - [Legal framework for governance](#), and [Trade and economic related issues](#), Policy Department for Structural and Cohesion Policies, European Parliament, June 2017.

⁴⁷ See e.g. [Scottish Fishermen's Federation](#) website and declarations in [UK media](#).

access to EU markets is essential for a thriving post-Brexit UK fisheries sector considered as a whole, and even more so if the interests of the aquaculture and fish processing sectors are included.⁴⁸

The UK's withdrawal from the EU takes place at a moment when, after many years of strict management measures and great efforts from all fleets involved, the state of the North-east Atlantic fish stocks has improved and the fishing industry is largely profitable.⁴⁹ At the time of the Brexit referendum in 2016, the UK fishing sector registered the highest net profits of all Member States fishing in the North-east Atlantic.⁵⁰ Beyond winners and losers in economic terms, there was widespread concern that the lack of agreement on the terms of withdrawal would result in combined catches exceeding the levels required for long-term sustainable exploitation. Short-term gain from acting independently, with the UK fishing more of the shared stocks without the EU fishing less, could lead to a no-win situation of overfishing and increased risk of a collapse in key stocks. Previous examples of disputes resulting in unilateral setting of quotas only added to this concern, such as the well-known case of Iceland establishing its quota outside the EU-Norway-Faroe Islands arrangement, which led to landings far above scientific advice and the loss of the MSC certification for the mackerel stock.⁵¹

4.2. Trade

While fishery and aquaculture products can move freely and tariff-free inside the EU single market, EU-UK trade in such products is subject to arrangements under the EU-UK Trade and Cooperation Agreement since 1 January 2021.⁵² The impact on the EU-UK trade flow depends both on the agreed trade arrangements and on changes in the allocation of fishing opportunities.

Trade arrangements in the new EU-UK relationship cover both rules on tariffs and NTMs. Northern Ireland, following the Northern Ireland Protocol⁵³ agreed between the UK and the EU, can continue to trade freely within the EU single market without tariffs, customs checks or requirements. To this end, the UK has committed to apply the provisions of Union law related to for example sanitary and phytosanitary requirements requirements, marketing standards and the IUU Regulation in Northern Ireland. This means that only exports from Great Britain to the EU face possible custom duties and NTMs. Another exception to the possible application of tariffs would be the imports that fall within the autonomous tariff quotas for fishery and aquaculture products.

⁴⁸ See e.g. House of Lords – European Union Committee, [Brexit: fisheries](#), 2016; New Economic Foundation, [Not in the same boat. The economic impact of Brexit across UK fishing fleets](#), 2017.

⁴⁹ Towards more sustainable fishing in the EU: state of play and orientations for 2021, [COM\(2020\) 248](#). European Commission, June 2020.

⁵⁰ See N. Carvalho, J. Casey, J. Guillen, J.T. Martinsohn, [Profitability and management costs in the EU Northeast Atlantic fisheries](#), *Marine Policy* 123, 2021, Table 1.

⁵¹ See e.g. FAO [Market report](#), March 2020.

⁵² Similarly, [new trade agreements](#) between the UK and other third countries have been signed or are in the process of being negotiated as part of UK's independent trade policy.

⁵³ [Protocol on Ireland and Northern Ireland](#), European Commission website.

Table 1 – UK main export species and the standard WTO and EU autonomous tariff quota

Species and product code			UK export to EU (2019)		WTO	EU tariff quota	
Species	CN code	Description	weight (tonnes)	value (€ million)	MFN tariff	quota	tariff
Salmon	03021300, 03021400, 03044100	Fresh (fillets of) Pacific, Atlantic and Danube salmon	55 419	389.5	2 %	-	-
Salmon	03031300	Frozen Atlantic & Danube salmon	1 917	3.8	2 %	-	-
Salmon	03031100, 03031200, 03048100	Frozen Pacific salmon; frozen fillets of Pacific, Atlantic and Danube salmon	1 045	7.7	2 %	10 000	0 %
Salmon	03054100	Smoked (fillets of) Pacific, Atlantic and Danube salmon	3 850	54.9	13 %	-	-
Salmon	16041100, 16042010	Prepared or preserved salmon	971	10.2	5.5 %	-	-
Nephrops	03063400	Fresh Norway lobsters (Nephrops)	5 723	56.5	12 %	-	-
Nephrops	03061500	Frozen Norway lobsters (Nephrops)	6 724	57.9	12 %	-	-
Lobster	03063100	Fresh rock lobster and other sea crawfish	117	2.4	12.5 %	200	0 %
Lobster	03061190	Frozen rock lobster and other sea crawfish	155	1.7	12.5 %		
Lobster	03063210	Live lobster Homarus	1 810	37.4	8 %	-	-
Lobster	03063291	Fresh lobster Homarus	54	1.1	8 %	-	-
Lobster	03061210	Frozen lobsters Homarus	99	1.8	6 %	-	-
Lobster	16053090	Prepared or preserved lobster	59	0.9	20 %	-	-
Crab	03063310, 03063390	Fresh crabs	6 763	35.1	7.5 %	-	-
Crab	03061410, 03061430, 03061490	Frozen crabs	3 723	28.4	7.5 %	-	-
Crab	03069310, 03069390	Crabs dried, smoked, salted or in brine	700	4.9	7.5 %	-	-
Crab	16051000	Prepared or preserved crabs (excluding smoked)	236	3.6	8 %	-	-
Mackerel	03024400	Fresh mackerel (Scomber scombrus, Scomber Australasicus, Scomber Japonicus)	9 368	15.6	20 % (15/02 to 15/06: 0 %)	-	-
Mackerel	03035410	Frozen mackerel (Scomber scombrus, Scomber japonicus)	35 579	48.9	20 % (15/02 to 15/06: 0 %)	-	-
Mackerel	03048949	Frozen fillets of mackerel (Scomber scombrus, Scomber japonicus)	2 625	7.0	15 %	5 000	7.5 %
Mackerel	03054930	Smoked mackerel (Scomber scombrus, Scomber australasicus, Scomber japonicus)	213	1.9	14 %		
Mackerel	16041511, 16041519	Prepared or preserved (fillets of) mackerel (Scomber scombrus and Scomber japonicus)	513	2.5	25 %	-	-
Scallop	03072100	Fresh scallops (of the genera Pecten, Chlamys or Placopecten)	3 705	63.6	8 %	-	-
Scallop	03072290	Frozen scallops (of the genera Pecten, Chlamys or Placopecten, excluding Pecten Maximus)	1 129	12.8	8 %	-	-

Species and product code			UK export to EU (2019)		WTO	EU tariff quota	
Species	CN code	Description	weight (tonnes)	value (€ million)	MFN tariff	quota	tariff
Scallop	03072210	Frozen coquilles St. Jacques (Pecten Maximus)	1 732	15.7	8 %	-	-
Scallop	03072900	Scallops (of the genera Pecten, Chlamys or Placopecten), smoked, dried, salted or in brine	237	2.2	8 %	-	-

Data source: [Comext](#) (2019 data, as of 2 April 2020), [Regulation 2020/1577](#) (WTO MFN), [ATQ Regulation](#) (EU tariff quota).

Table 1 illustrates the trade at stake for exports of fishery and aquaculture products from the UK to the EU. It lists the UK's main export species for their most exported combined nomenclature (CN)⁵⁴ codes, along with the corresponding WTO tariff and EU tariff quota that would have applied in a 'no deal' scenario.⁵⁵ This selection of CN codes represented an export value of €868 million in 2019 – some 55 % of the total UK export value to the EU-27. Most of the salmon exports concern less processed forms (fresh and frozen) and have a low WTO tariff of 2 %. A large proportion of all UK salmon exports are already exported at this rate to other third countries (mainly the USA). In general, across all species, most of the UK exports belong to the 'fresh' preservation category and are therefore subject to lower WTO tariffs, although for important UK export species such as nephrops, lobsters and mackerel, these tariffs can be significant (up to 25 % for prepared or preserved mackerel). In addition, in the case of smoked salmon, the tariff reaches 13 %.

As regards the impact of NTMs, apart from the need and the cost for companies and government administrations to prepare for them (e.g. labelling and certification requirements), there is also an impact on the trade flow when applying them. According to the Scottish salmon producers' organisation, the cost of the export health certificate for that sector would be between GB£1.3 million and GB£8.7 million per year,⁵⁶ with additional border delays giving international competitors (e.g. Norway) an advantage. In particular, border delays are a critical barrier for the trade of fresh fish and shellfish. As the public SeaFish industry authority noted,⁵⁷ shellfish products are typically exported in various preservation formats, but live shellfish commands higher prices than chilled/fresh shellfish products that, in turn, are more worth than frozen shellfish products, and time to market is critical for supplying the premium market. Border delays might therefore pose the biggest trade barrier for those species. Unlike the case of salmon, the bulk of UK shellfish destined for EU Member States (especially France, Spain and Italy) would have few market alternatives.⁵⁸

A number of studies modelled the impact of Brexit on seafood trade in different scenarios.⁵⁹ Overall, given the importance of EU markets for UK fishery and aquaculture products, the models show that the application of tariffs and NTMs reduces the profit generated by a higher level of UK quotas. Sectors producing farmed and non-quota species are unable to benefit from increased fishing

⁵⁴ [Combined Nomenclature \(CN\)](#), European Commission website.

⁵⁵ However, as touched upon in the European Commission [proposal](#) on the current ATQ Regulation, the Council might have decided to amend the autonomous tariff quotas in the absence of a trade agreement with the UK.

⁵⁶ [Brexit deal to place unnecessary burdens on salmon sector](#), Scottish Salmon producers organisation.

⁵⁷ [Seafood trade and Brexit](#), SeaFish website.

⁵⁸ [Common Fisheries Policy and Brexit - Trade and economic related issues](#), Policy Department for Structural and Cohesion Policies, European Parliament, June 2017.

⁵⁹ E.g. Bartelings H., Smeets-Kristkova Z., [Impact of hard Brexit on European fisheries](#), Wageningen University and Research, 2018 and APBMer, [Seafood Trade Modelling Research Project - Assessing the Impact of Alternative Fish Trade Agreements Post EU-Exit](#), Marine Scotland, 2018.

access and would experience a negative impact, leading to a reduction in export value.⁶⁰ The negative impact of the trade measures are symmetric for the EU, but overall the EU's lower dependence on the UK market smoothens the total impact on EU exports. Given its high volume of exports to the UK, the impact would be the highest for Germany, in particular for its processing sector.⁶¹ A higher share of UK quota would also directly impact EU production and related exports to the UK – in particular for those species with high UK demand (e.g. cod), where it is expected that EU imports will be partially replaced by UK production.

Additionally, trade flows might also relocate in terms of transit countries in order to avoid additional custom controls and possible border delays. For example, Norwegian salmon that is currently shipped to the UK via Sweden or, to a lesser extent, via Denmark, or containers arriving first in the Netherlands from China and other Asian countries for logistic reasons (the 'Rotterdam effect'). Likewise, new direct routes between, for example, Ireland and other EU countries may and are already being established.

5. The EU-UK fisheries negotiations

Fisheries, and particularly fishing rights for the EU fleet in UK waters, were the bone of much contention during the negotiation of the future EU-UK relationship. For the EU, a fisheries agreement maintaining access to UK fishing grounds was a condition to meet for a comprehensive trade agreement including fish products, thereby linking access to markets with access to waters. The EU's published draft text⁶² of the agreement provided for the continuation of reciprocal access to waters and stable quota shares. Catch limits were to be set for a list of 97 stocks and distributed as quotas using fixed EU and UK shares.⁶³ If the parties could not agree on the total catch limits, the quotas could not be set higher than the application of those fixed shares on the total catch level recommended by scientific advice. Reciprocal access to waters beyond 12 miles would be maintained, as well as more limited access for fishing vessels targeting certain species in the territorial waters between 6 and 12 miles.⁶⁴ Failure to comply with the agreements on reciprocal access rights and fishing opportunities could eventually lead to the suspension of tariff concessions 'equivalent to the impairment caused by the noncompliance'. The draft text also included provisions regarding the joint management of fishery resources, covering important CFP objectives such as achieving the maximum sustainable yield. Parliament's recommendation on the negotiations, adopted in June 2020, reiterated the conditionality between access to UK waters and access to the EU common market for UK fisheries products.⁶⁵ On the allocation of fishing opportunities, it firmly stated that the allocation keys applied according to the principle of relative stability should be included in the agreement.

⁶⁰ For example, in APBMer, [Seafood Trade Modelling Research Project - Assessing the Impact of Alternative Fish Trade Agreements Post EU-Exit](#), Marine Scotland, 2018, Tables 4.10 and 4.12.

⁶¹ The vast majority of German exports are processed products based on globally imported raw materials; see also [Common Fisheries Policy and Brexit - Trade and economic related issues](#), Policy Department for Structural and Cohesion Policies, European Parliament, June 2017, page 71.

⁶² [Draft text of the Agreement on the New Partnership with the United Kingdom](#), European Commission website.

⁶³ The 97 fish stocks are listed in Annex FISH.1. Annex FISH.2 contains a template for the quota shares.

⁶⁴ As specified in annexes FISH.3a and 3b of the draft agreement.

⁶⁵ [Recommendation](#) of 18 June 2020 on the negotiations for a new partnership with the United Kingdom of Great Britain and Northern Ireland, European Parliament.

The UK position was based on abandoning the relative stability mechanism, and obtaining a larger share of the resources. It involved a separate agreement on fisheries, covering access to waters, fishing opportunities and cooperation on fisheries management, while the comprehensive Free Trade Agreement was to cover trade in fisheries products. The draft UK fisheries agreement text confirmed the UK's objective to be recognised as an independent coastal state, no longer bound by the CFP.⁶⁶ Each party would manage its own fisheries independently and taking 'such measures in its relevant waters, as it considers appropriate to ensure the rational and sustainable management of fisheries'. Fishing opportunities would be based on zonal attachment, a concept reflecting the resources in each fishing zone (see text box below), applied in the EU-Norway fisheries agreement, and more recently in the new UK-Norway framework agreement on fisheries.⁶⁷ The quota shares would be negotiated annually (rather than only the total catch levels). Furthermore, EU fishing vessels would need a licence to fish in UK waters, following annual negotiations on permitted fishing volumes.

Zonal attachment

Zonal attachment refers to the proportional distribution of a stock between different EEZs. However, there is no agreed definition as to how it should be measured. Beyond the sheer number of shared stocks involved (almost 100, compared to the 7 stocks jointly managed in the case of the EU-Norway Agreement), the calculation of EU and UK fishing quotas based on zonal attachment would be a complex issue. Many of the species caught in the UK EEZ are migratory stocks, whose life cycles involve time spent in EU waters as spawning stocks or juveniles, before recruitment to adult stocks in UK waters, where they are at greatest risk of capture (e.g. herring growing in waters off Denmark). In the Irish Sea and the English Channel, with narrower UK and EU EEZs, and numerous species mix and interested parties, the allocation of fishing rights according to zonal attachment becomes even more complicated. Estimation of potential UK fishing rights based on zonal attachment for several mainly demersal fish stocks in UK waters indicates that in most cases they would be higher than the CFP quota allocation. Nevertheless, for certain stocks such as haddock in the North Sea, the actual UK landings (after quota swaps) exceeded the estimate of the quota based on zonal attachment.

Source: Various.⁶⁸

The EU and UK negotiating positions remained virtually unchanged throughout the discussions. Fisheries were a permanent sticking point in the negotiation, and remained deadlocked until seven days before the end of the transition period.⁶⁹

⁶⁶ [Draft working text](#) for a fisheries framework agreement between the United Kingdom of Great Britain and Northern Ireland and the European Union; [The future relationship with the EU, The UK's approach to negotiations](#), UK Government, 2020.

⁶⁷ [UK/Norway: Framework Agreement on Fisheries](#), October 2020.

⁶⁸ S. Walmsley, 'EU Northern agreements', in World Bank report, [Trade in fishing services. Emerging Perspectives on Foreign Fishing Arrangements](#), 2014; DEFRA, [Sustainable fisheries for future generations](#), 2018; B. Le Gallic, S. Mardle, S. Metz, [Brexit and fisheries: A question of conflictig expectations](#), *EuroChoices* 17/2, 2018; J. Phillipson, D. Symes, '[A sea of troubles': Brexit and the fisheries question](#), *Marine Policy* 90, 2018; P.G. Fernandez, N.G. Fallon, [Fish distributions reveal discrepancies between zonal attachment and quota allocations](#), *Conservation Letters*, 2020; M. Heath, R. Cook, [Risks to North Sea fish stocks and wildlife if post-Brexit fishery negotiations fail to reach agreement on quotas and access to UK waters](#), University of Strathclyde, 2020.

⁶⁹ On 10 December 2020, the European Commission tabled, among other [contingency measures](#) to prepare for a 'no-deal' Brexit, a proposal for a regulation amending the EU rules on fishing authorisations ([COM\(2020\) 830](#)). The regulation, intended to facilitate the procedures of authorisation if the UK authorised EU vessels to fish in its waters, was [adopted](#) by Parliament in an urgent procedure on 18 December 2020. The proposed regulation was designed to apply from 1 January until 31 December 2021, or until a fisheries agreement was reached.

6. The EU-UK Trade and Cooperation Agreement

On 24 December 2020, the EU and the UK reached an agreement, after almost ten months of negotiations, which finally culminated in settling the thorny fisheries issue.⁷⁰ The new Trade and Cooperation Agreement (TCA) was signed on 30 December 2020. In the UK, the implementing act allowing for its ratification was adopted by the two Houses of Parliament and received Royal Assent on the same day, entering into force on 1 January 2021, as the European Union (Future Relationship) Act.⁷¹ In the EU, following the Council's decision,⁷² the TCA entered provisionally into force on 1 January 2021, and the European Parliament is now requested to give its consent to the conclusion of the agreement.⁷³ The committees concerned, including the Committee on Fisheries, have examined the TCA and provided opinions preparing Parliament's decision, with a view to adopting it in plenary before the end of the provisional application.⁷⁴ A motion for a resolution will accompany the consent vote.

The TCA ensures tariff-free trade on all goods from day one, a goal pursued by both the EU and the UK. The agreement is thus unprecedented in terms of liberalising market access. It does not include an annex with tariffs and quotas, as is traditionally the case with other free trade agreements. This implies that trade in fisheries and aquaculture products can continue without tariffs, which is especially important for the UK seafood industry. However, as the UK has left the EU single market and customs union, it will no longer benefit from the free movement of goods (with the exception of Northern Ireland). Trade between the UK and the EU is not as seamless as previously, and NTMs such as certification requirements and customs controls entail additional costs and have already caused critical border delays.

The fisheries agreement is included in the TCA, in line with the EU position, as Heading five in Part two. The EU and the UK commit to ensure that fishing activities for shared stocks are environmentally sustainable in the long term and contribute to achieving economic and social benefits. Moreover, the two parties agree to exploit shared stocks at rates intended to progressively restore and maintain them above biomass levels that can produce the maximum sustainable yield – a major conservation objective of the CFP and a legal duty that is absent from the UK's new Fisheries Act. While each party manages fishing in its waters independently, fisheries measures must be non-discriminatory to the other party's vessels and based on the best available scientific advice.

The agreement maintains full reciprocal access to waters for a five-and-a-half-year 'adjustment period', lasting until 30 June 2026 (protocol in annex FISH 4). This concerns the 12-200 mile EEZs, as well as the 6-12 mile zone in the southern North Sea, the English Channel, the northern Celtic Sea and the Bristol Channel (ICES areas 4c and 7d-g), thereby including the coastal zones of the southern UK.⁷⁵ Access to non-quota stocks and to the 6-12 mile waters is based on historical activity between 2012-2016. The agreement also provides for specific rules regarding access to the waters of the UK's Crown Dependencies (Jersey, Guernsey, and the Isle of Man).

⁷⁰ [The EU-UK Trade and Cooperation Agreement](#), European Commission website.

⁷¹ [European Union \(Future Relationship\) Act 2020](#), UK Government legislation.

⁷² EU-UK Trade and Cooperation Agreement: Council adopts decision on the signing, [press release](#), Council of the EU, 29 December 2020.

⁷³ [EU/Euratom/UK Trade and Cooperation Agreement and EU/UK Agreement concerning security procedures for exchanging and protecting classified information](#), Legislative Observatory (OEIL), European Parliament.

⁷⁴ See [Opinion](#) on the conclusion of the EU/UK Trade and Cooperation Agreement, PECH committee, European Parliament, 4 February 2021.

⁷⁵ See map of [ICES areas](#).

During the adjustment period, part of the EU quota shares will gradually be transferred to the UK. The agreement establishes the EU and UK quota shares for each stock, specifying how these allocation keys will change every year from 2021 to 2025, and maintaining the latter values for '2026 and beyond' (annexes FISH 1 and 2). The transferred fishing opportunities are considered to represent 25 % of the value of the EU landings from UK waters.⁷⁶ The EU and the UK will jointly determine the TAC for each stock after annual consultations, considering scientific advice and socio-economic factors, and will divide it in line with the quota shares indicated in the agreement. However, if the parties fail to agree, a provisional TAC will apply at the level advised by the International Council for the Exploration of the Sea (ICES), until an agreement is reached. The two parties also agreed on setting up a mechanism for voluntary transfers of fishing opportunities to take place each year.⁷⁷

After 1 July 2026, access to waters will be decided in annual consultations, and will depend on having TACs agreed for the relevant areas. The quota shares will remain stable from 2026 onwards, unless the Partnership Council established under the EU-UK TCA amends the annexes, which requires the mutual consent of the parties. Should they fail to agree the TACs, provisional access is granted for a limited period (3 months for most TAC stocks and for non-quota stocks, 1 month for stocks in the 6-12 mile zone). If one party reduces or withdraws access to its waters, the other may apply compensatory measures, such as suspending tariff concessions for fisheries products or revoking access to its waters. Moreover, in the event of a breach of the fisheries agreement, remedial measures may be applied, including the suspension of preferential tariffs for other goods, and the partial or full suspension of the trade part of the agreement.

Under the TCA, the UK reserves the right to introduce, among other rules, new conditions to restrict flagging of vessels to British companies or to require that the crew of a UK-flagged vessel are British nationals (UK reservation No 13 'Fishing and Water'), potentially affecting EU vessels registered in the UK and EU crew members. The Falkland Islands (and other UK overseas territories) are not included in the territorial scope of the TCA, exposing UK-flagged mixed fishing companies set up with EU capital to trade tariffs under WTO rules.

The new agreement reshapes fisheries relations in the North-east Atlantic on an unprecedented scale. In the UK, beyond the fishing sector's prevalent disappointment regarding the deal,⁷⁸ the immediate effects include more complex procedures for exporting fisheries products to the EU, generating extra-costs, delays, and ultimately losses. In the EU, beyond the widespread relief that a disastrous 'no deal' was avoided, concerns have been raised over the loss of part of the EU's historical fishing rights, and over the stability of the access to UK waters and resources after the adjustment period. It will take time for the full consequences of the fishing agreement to be understood, including the exact impact of reducing EU quota shares on each Member State concerned.

To help Member States mitigate these consequences in the short term, the European Commission proposal establishing a Brexit Adjustment Reserve includes an allocation of €600 million for the 11 Member States fishing in UK waters.⁷⁹ The proposal, recognising fishing as one of the sectors most affected by Brexit and aiming to support businesses and local communities dependent on

⁷⁶ [International treaty Summary Explainer](#), UK Government website.

⁷⁷ Due to the UK's third-country status, these quota swaps would be carried out by the European Commission (and not by the Member States, as was previously the case).

⁷⁸ [Scottish Fishermen's Federation website](#), 15 January 2021.

⁷⁹ Proposal for a Regulation of the European Parliament and of the Council establishing the Brexit Adjustment Reserve, [COM\(2020\) 854](#), European Commission, December 2020.

fishing activities in British waters, is currently being examined by Parliament and Council.⁸⁰ In the longer term, the new European Maritime, Fisheries and Aquaculture Fund (EMFAF) 2021-2027 will also provide financial backing for the sector, to deal with the fallout from implementing the agreement. Indeed, while the bare-bones structure of the new EU-UK relationship is now established, the implementation of the agreement in all its detail remains a major challenge facing fisheries management in the North-east Atlantic for the months and years to come.

⁸⁰ [Establishing the Brexit Adjustment Reserve](#), Legislative Observatory (OEIL), European Parliament.

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The United Kingdom's decision to leave the European Union has brought significant uncertainty for the fisheries sector. Fisheries, and especially EU fishing rights in UK waters, played a prominent role in the recent negotiations on future EU-UK relations and ultimately became the final obstacle to reaching an agreement, being the very last point to be agreed.

The new EU-UK Trade and Cooperation Agreement, settled on 24 December 2020, marks an important milestone in the long history of fisheries relations in the North-east Atlantic. The agreement maintains full access to waters until 30 June 2026, with part of the EU quota shares gradually transferred to the UK during this period. After 1 July 2026, access to waters will be decided by a process of annual consultations. The quota shares will remain stable at the 2025 level, and can only be changed with the mutual consent of both parties. The Trade and Cooperation Agreement ensures that fisheries and aquaculture products continue to be traded without tariffs, but non-tariff measures associated with the UK leaving the EU common market, such as certification requirements and customs controls, will involve slower and more expensive trade flows.

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