



Inter-AC meeting on post-Brexit situation

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**TRADE AND COOPERATION AGREEMENT BETWEEN THE EUROPEAN UNION AND THE
EUROPEAN ATOMIC ENERGY COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART**



heading 5: fisheries

chapter 1: initial provisions (articles 1 – 3)

affirmation of sovereign rights of coastal States exercised by the Parties

objectives

- ✓ environmental sustainability, economic and social benefits
- ✓ fishing at rates that allow stock above levels that can produce MSY

principles, inter alia:

- ✓ precautionary approach, long-term sustainability/optimum utilization, best available scientific advice, minimizing ecosystem impacts, non-discriminatory measures, data collection/sharing, ensure compliance and combating IUU, ensuring timely implementation of agreed measures

chapter 2: conservation and sustainable exploitation

(articles 4 – 5)

fisheries management

- ✓ Parties take measures: in pursuit of objectives and principles, based on best available scientific advice, applied equally to all vessels concerned
- ✓ timely notification of (new) measures

authorizations, compliance, enforcement

- ✓ Parties communicate lists of vessels and other Party issues licenses
- ✓ Parties take all necessary measures to ensure compliance of vessels

chapter 3: access to waters and resources (articles 6 – 13)

fishing opportunities (TACs)

- ✓ early agenda setting, to agree TACs by 10 December, through written, signed records
 - ✓ based on scientific advice and socio-economic aspects, complying with agreed multi-year management strategies
- ✓ allocation of quota shares in accordance with agreed sharing (Annex 1)
- ✓ consultations may cover other issues
 - ✓ (transfers, prohibited species, new TACs, other measures), in-year amendments can be agreed

provisional TACs

- ✓ where no agreed TAC by 20 December, provisional TAC
 - ✓ at level advised by ICES
 - ✓ remain in place until TAC is agreed
 - ✓ special stocks (e.g. 0 TAC advice), under agreed guidelines - early discussion after release of advice
- ✓ Parties set quota in line with sharing in Annex, and notify other Party

chapter 3: access to waters and resources (articles 6 – 13)

access (1)

adjustment period until 30 June 2026 (annex 4 – protocol on access to waters)

- ✓ each Party shall grant to vessels of the other Party full access to its waters to fish
 - ✓ stocks in annexes 1, 2A, 2B, 2F
 - ✓ non-quota stocks
 - ✓ 6-12 nm (areas 4c and 7d-g)
 - ✓ specific technical conditions, including activity record, and from agreed TACs, multi-year strategies for non-quota stocks, agreed technical/conservation measures)

from 1 July 2026

- ✓ Party shall grant access where TACs have been agreed in relevant ICES subarea – level and conditions determined in annual consultation
- ✓ consultations in good faith with aim to ensure mutually satisfactory balance between interests of the Parties

chapter 3: access to waters and resources (articles 6 – 13)

access (2)

outcome of consultations normally results access

- ✓ reasonably commensurate to quota shares (TAC stocks), at least equal to historic levels (non quota, access to 6-12 nm)

where Party notifies change of access, compensatory measures may be applied

- ✓ commensurate to economic/societal impact, based on evidence
- ✓ suspension (whole, part) of access to waters and of preferential fishery products tariffs
- ✓ procedure for applying and lifting compensatory measures

specific access to waters of Guernsey, Jersey, Isle of Man and accompanying conditions

chapter 4: arrangements on governance (article 14 – 19)

- ✓ remedial measures and dispute resolution (for failure to comply with the Heading)
- ✓ data sharing (necessary for implementation of the Heading)
- ✓ Specialized Committee on Fisheries
 - ✓ forum for discussion and co-operation
 - ✓ list of possible actions and decisions, conclusions, recommendations
 - ✓ annual TAC consultations not in SCF
- ✓ termination provisions
- ✓ review clause (4 years after adjustment period)
- ✓ agreement without prejudice to existing agreements

annexes

annex 1: TACs jointly managed, sharing arrangement

annex 2:

- ✓ 2A: UK-EU-NO TACs
- ✓ 2B: coastal States stocks
- ✓ 2C: ICCAT stocks
- ✓ 2D: NAFO stocks
- ✓ 2E: special cases
- ✓ 2F: stocks only present in one Party's waters

annex 3: non-shared TACs related to the joint management

outcome

comprehensive agreement

strong objectives and principles

stable quota shares and access

links to overall agreement

close cooperation

Q&A – markets

1. When exporting to the UK, how was the impact of rules of origin on qualified processing taken into account? (MAC)

The TCA contains the EU standard rules of origin for fishery products, they have to be wholly obtained meaning caught by the EU or UK vessels. Processing of fish does not change anything in relation to their origin. These are the standard EU rules that the EU MS and UK used to apply in other free trade agreements and in this respect the market access for fisheries between the EU and UK does not really change. The UK is simply no longer part of the customs union hence the necessity to comply with the rules of origin.

2. Are there any updates in the situation of the UK Overseas Territories (e.g. Falklands) and the trade relations (i.e. customs and tariff fees) with the EU in terms of seafood products? (LDAC)

B3 (Pawel) will take floor

Questions regarding imports of fish products (e.g. canned tuna) – when a product coming from a third country to the EU market and this product is now to be exported to the UK, it is understood that an *export health certificate for this shipment* (to import it to the UK) is needed.

3. Are any additional documents required as referring to IUU such as catch certificates, processing statements or storage documents? (MAC)

Yes, to export fishery products to the UK that has been previously imported into the EU they should be accompanied by:

A Catch Certificate covering the product (the UK confirmed that the Catch Certificate issued for import into the EU can be used for exports to the UK, without the need to request a new one to the flag state, considering that the data contained in the UK Catch Certificate and the EU Catch Certificate are the same)

The processing statement in case of processed products (same as the catch certificate, the document provided to EU inspectors upon importations can be used for exportation to the UK if the product is not further processed in the MS)

Storage document validated by the MS of export providing evidence that the product has not been manipulated (further than unloading, reloading or subject to any operation intended to preserve the product in good condition). This requirement responds to the requirement established in Art 14.1 of the UK IUU Regulation (which is a copy of Art 14.1 of the EU IUU Regulation).

In the case the fishery product is further processed in the Member State before being exported to the UK, another processing statement containing the details of this second processing should be issued by the MS.

Re-export Certificate: as established in Article 21 and Annex III of the EU IUU Regulation.

- **Are copies enough or do we need new originals?**

In the case that all the fishery products imported under a catch certificate are re-exported, the competent authority of the Member State should fulfil the re-export section of the original catch certificate and this original goes with the products. If only part of the imported products are re-exported, a copy of the catch certificate can be used.

- **If originals are needed, what authority is responsible for, when the goods are in a warehouse in the Member State?**

As in the EU IUU Regulation, the UK IUU Regulation does not specify which authority should validate the storage document (Art 14.1). It is up to the MS to decide if this is done by customs, fisheries authority or any other that can provide the guarantees that the product has not been manipulated.

4. Will there be efforts to ensure standardisation and harmonization of rules on product labelling? (MAC)

Official indications from the UK government on labelling and marketing standards applicable to exports of FAPs for human consumption to the UK from 2021 are in-line with EU legislation, be it implicitly (requirements on labelling, including commercial designations, mirror EU legislation) or explicitly (EU legislation still cited) on marketing standards. We can expect that it will change, at least to remove any explicit reference to the EU legislation – but no information yet.

We are revising the marketing standards under CMO, so there could be possible changes (incl. consumer information / labelling). Impact assessment is on-going, potential proposal currently planned for 2021.

Q&A – international

5. Will the EU develop a specific strategy or dialogue with the UK to discuss joint proposals in the field of International Ocean Governance? (LDAC)

There are no plans to set up a specific dialogue or strategy with the UK for the moment. Since the UK's withdrawal, there have been contacts on respective positions in multilateral fora, for example in the context of BBNJ or FAO, but nothing structural.

Commission is working horizontally on internal terms of engagement with the UK, considering that there is no framework in place between the UK and the EU to develop and coordinate joint responses to foreign policy challenges. However, several DGs note an ad hoc outreach by the UK on external issues not covered by the TCA.

Q&A – international

6. We are interested in knowing more about the preparation of Annual Meetings of RFMOs. Will this be done as a result of a pre-defined collaboration or rather dealt with on a case by case basis (e.g. NAFO, ICCAT, IOTC)? (LDAC)

It is DG MARE's policy to seek cooperation with other key contracting parties in RFMOs ahead of Annual Meetings and we will continue to do so when we identify such cooperation can bring added-value to the RFMOs works.

For the specific case of the UK, Article 8.8 of the TCA (“Trade and sustainable management of marine biological resources and aquaculture”) shows that the EU and the UK share the same objectives in conserving and sustainably managing marine biological resources and ecosystems.

According to the TCA, “ *the Parties shall work together on conservation and trade-related aspects of fishery and aquaculture policies and measures, including in the WTO, RFMOs and other multilateral fora, as appropriate, with the aim of promoting sustainable fishing and aquaculture practices and trade in fish products from sustainably managed fisheries and aquaculture operations*”.

In that spirit, DG MARE could work together with the UK in preparation and during the RFMOs Annual Meetings where we are both members, on a case-by-case basis, taking into account the objectives the EU wants to achieve during the annual meetings.

Q&A – implementation of TCA

7. Can the Commission provide more detail on future procedures to ensure a level playing field between UK and EU in relation to fisheries management measures, including technical measures? In other words, that these will be science-based, non-discriminatory and proportionate to the objectives pursued? (PELAC)

8. Technical measures in UK Waters: in terms of procedure the technical measures applying in UK Waters have been notified through the issuance of licenses: what procedure might there be in the future considering the procedure described in article (FISH 4.3) in the TCA? in the event of a discrepancy between UK Technical Measures and EU measures: what measures apply to EU vessels fishing in UK waters and how will a level playing field between vessels be ensured? (NWWAC)

9. Is it possible to get a definitive process and timeline for how the two bi-laterals, the tri-lateral, the December Council, and the Coastal States negotiations, will work alongside each other and what is the hierarchy? (PELAC)

10. How is the future relationship with Norway foreseen? (NSAC)

Q&A – implementation of TCA

11. In Annex FISH2, under Coastal States stocks, mackerel and blue whiting are included, but atlanto-scandian herring is not - please can the Commission detail the rationale behind this?
(PELAC)

12. The NSAC would like to highlight that there is an urgent need to establish a fast track mechanism for quota swaps between the UK in the EU North Sea MS. We would like to hear from the Commission what concepts they have and what obstacles they foresee to come to rapid solutions
(NSAC)

13. Which method is/will be used to calculate the “ceiling” (which interpretation is adopted between appendix Fish.4 “non quota stocks at a level that equates to the average tonnage fished” and article FISH 8 4 (b) “At level that at least equates to the average tonnage fished...”), which method is/will be used to identify stocks and how are stocks taken into account whose activity developed after 2016
(NWWAC)

14. How does the Commission intend to implement what is referenced in the TCA in relation to non-quota species so that CFP goals are met in time for these stocks as well? (NWWAC)

15. If new management strategies or options need to be agreed, as seems to be the case for non-quota species, what process for this is envisaged by the Commission? How would it do justice to the agreed policy processes in the EU and how would stakeholder consultation feature (NSAC)

Q&A – implementation of TCA

16. In light of the transfers of the shares in the annex 3 of the TCA (“*sister TACs*”) to the UK what allowances otherwise was done in relation to those transfers? (NWWAC)

17. How might UK management of sea bass diverge from EU management and what problems would this cause? (NWWAC)

18. What is the problem with the UK’s suggestion that the setting of TACs can be separated from other considerations? (NWWAC)

19. Modification of the calculation of the baselines by the British (NWWAC)

Q&A – licensing

20. Scope of the licenses that have been granted to the British within 6-12 miles (is this property restricted to 6-12 miles of the Member State in which the British prior art was produced) (knowing that UK issues the authorizations for all these 6-12 miles (the prior art of the ship) (NWWAC)

At present, one single UK vessel was issued an authorisation to fish in the EU's territorial waters. Access to the territorial waters of the respective Parties to the TCA is governed by annex FISH.4 art. 2 which stipulates that “*each Party shall grant to vessels of the other Party full access to its waters to fish ... for qualifying vessels to the zone in the waters of the Parties between six and twelve nautical miles from the baselines in ICES divisions 4c and 7d-g ...to the extent that each Party's qualifying vessels had access to that zone on 31 December 2020*”. Access to territorial waters is therefore limited to the zones identified in the TCA.

Q&A – licensing

21. What about the provisional licenses for the EEZ issued until 11/02/21? We have not had any feedback on the reasons for their provisional status (a priori the Norman Producers Organization either), and given the 6-meter vessels passed until 12/31/21, it is rather surprising. that it blocks for vessels of 15-16 meters. (NWWAC)

At present, only 7 vessels continue to operate under a provisional licence, mainly due to the fact that we were unable to provide accurate vessel owner data. Commission is working closely with the MS concerned and the UK to resolve these issues.

22. As the provisional licences are currently dated until 31 December 2021, what is going to happen beyond that date? (NWWAC)

There are no provisional licences which run until 31 December 2021. It is expected that Full licences will be issued for the next year in the context of the Annual Consultations covering the 2022 Fishing year.

Q&A – designation of ports

23. We would like to have issues with EU 1005/2008 and EU 1006/2008 in relation to what we assume are unintended consequences as a result of Brexit raised at this forum. Several of our members were forced to engage in long and dangerous voyages in small vessels in order to land in the designated ports. The solution implemented is not satisfactory as there are still unreasonable and unnecessary demands, one of which envisages vessels on the UK register, owned by Irish citizens (EU) unable to remain in their home ports. We assume that it was not envisaged that the UK would become a third country at that time. Vessels of under 12 meters are now hostage to what was designed for much larger vessels from what were then far away third countries. EU citizens are bearing the brunt of this and we feel that these regulations need to be looked at urgently to become fit for purpose (NWWAC)

It is not the Commission's competence to negotiate the number or location of designated ports. In all that concerns the IUU Regulation (1005/2008), the same exact rules that the EU applies to any third country are now applicable to UK and vice-versa.

Q&A – Specialised Committee on Fisheries

24. More information on the Specialised Committee on Fisheries: composition, functions, meeting schedule (MAC)

25. How does DG MARE envisage participation of EU stakeholders in the future UK Specialised Fisheries Committee? For example, would the DG MARE be supportive of including EU stakeholders or set up a joint EU-UK stakeholders forum to feed this body? Do you consider the ACs to be the best placed for this? (LDAC)

26. The Specialised Fisheries Committee: how will this committee be constituted? Who will be on it, and what will be the role of the Advisory Councils in relation to the Committee? (PELAC)

27. Regarding the specialised fisheries committee: what is the composition, link with ACs, and regional groups of Member States? (NWWAC)

28. How will the specialized committee on fisheries be composed, work and how the stakeholder involvement will be organized (NSAC)

29. How will the Specialised Fisheries Committee interact with the umbrella partnership council / committee under which it sits? (PELAC)

Q&A – Future of ACs

30. Does the Commission have in mind any time plan or consultation to the ACs to review and assess the impact of Brexit in the composition, structure and functioning of the ACs? Will this discussion be embedded in the review of the CFP or dealt with it separately? (LDAC)

31. We would like to refer to our letter from 03 February 2021 regarding legal annex III of the CFP and its identification of the area of competence for the NWWAC as “ICES zones V (excluding Va and only Union waters of Vb), VI and VII.” With the UK having become a third country their EEZ is no longer under NWWAC competence. We would appreciate if the Commission could outline its understanding of how this legal Annex is affected by the UK’s departure from the EU and how this will be addressed. (NWWAC)

D3 (Pascale) will take the floor

Q&A – floor is open