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European Union Committee

8th Report of Session 2016–17

Brexit: fisheries

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The European Union Committee

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Evidence is published online at www.parliament.uk/brexit-fisheries-inquiry and available for inspection at the Parliamentary Archives (020 7129 3074).

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SUMMARY

The Common Fisheries Policy (CFP) has not always been successful in achieving its objectives of managing a mobile and renewable resource sustainably. Furthermore, the application of centrally adopted technical measures, such as gear types and net sizes, the allocations of quotas and the principle of equal access have historically led many in the industry to argue that the CFP is not only unfit for purpose, but is also unfair to the UK. Nevertheless, with UK leadership, the recent reform of the CFP towards regionalisation, maximum sustainable yield, and the banning of discards has meant considerable improvement.

Withdrawing from the European Union will mean withdrawing from the CFP. But fish know nothing of political borders and most commercial fish stocks are shared between UK waters and those of other EU or European coastal states. Species of fish may spend different stages of their life cycles in different nations' Exclusive Economic Zones (EEZs), and their spawning grounds may be in a different region from that in which they are caught when mature. These stocks are vulnerable to exploitation on either side of the political borders.

The fishing industry represents a very small part of the UK's GDP. Yet it is of great importance to many coastal communities across the UK. Successful fisheries management is also vital to the health of the wider marine environment. Withdrawing from the CFP gives the UK the opportunity to develop a fisheries management regime that is tailored to the conditions of UK waters and its fleet.

Fisheries management is a devolved matter for which the CFP has provided a common framework across the Devolved Nations. Post-Brexit this framework will fall away, raising the potential of four differing UK fisheries management regimes. Yet for the purpose of Brexit negotiations the UK must act as a single coastal state. Devolved Administrations must therefore be taken into account from the outset to ensure that a unified UK negotiation position on fisheries and Brexit is formed, based on co-operation with the four Devolved nations and their fishing industries.

The UK Government will be in a position to renegotiate its quota of Total Allowable Catches (TACs) for stocks that are shared with the EU and other neighbouring countries, taking account of the full lifecycle of mobile stocks. Once outside the EU, the UK can represent its own interests in vital international fisheries negotiations with neighbouring states. The Government must assess which of the many agreements upheld by the EU with key northern neighbours it wishes to replace, and establish the UK's seat in Regional Fisheries Management Organisations.

Significantly, the UK will also be able to control access by foreign vessels to UK waters, though withdrawal from the CFP will not in itself solve the issue of 'quota hopping'. Access could be a lever for the Government when negotiating new allocations of TACs for shared stocks, bearing in mind that fish must be exploited sustainably. In keeping with its commitments under international law, the UK should continue to co-operate with its maritime neighbours on fisheries management to ensure the sustainable management of these resources on the basis of scientific advice.

Fisheries also have an important trade angle. The majority of fish caught by UK fleets are exported—mostly to EU Member States. A successful catching

industry therefore needs continued market access. The majority of fish consumed in the UK are imported. Continued access to free, or preferential, trade in fish and seafood will therefore be crucial for the seafood industry and UK consumers. In approaching the wider Brexit negotiations, the Government must seek to preserve the UK's access to low-tariff exports and imports in fish.

Fisheries policy is a complex area, which cannot be solved in its entirety by the Great Repeal Bill. Untangling UK fisheries from the EU will be challenging and require political will and resources, both in the wider Brexit negotiations and beyond. From the day of withdrawal from the EU the UK will need to have in place arrangements with the EU and third countries with which the EU has fisheries agreements, so that shared stocks can be managed, access arrangements for UK vessels fishing outside UK waters can be negotiated to the mutual satisfaction of the parties, and trade in fish products can continue.

Many in the fishing industry were vocal in their support of Brexit and have declared the vote to leave a great opportunity for the sector. Notwithstanding the comparatively small contribution of fisheries to the UK economy, the voices of the industry, the coastal communities that support, and thrive on, the industry, and its supply chains must be heard in the wider Brexit negotiations.

Brexit: fisheries

CHAPTER 1: INTRODUCTION

Fisheries and the EU referendum

1. The referendum campaign raised the profile of fisheries, which was widely seen as a policy area where there was much to gain and little to lose from leaving the EU, restricting EU vessels from fishing in UK waters and leaving the regulatory regime of the Common Fisheries Policy (CFP) behind. It is not, however, clear that Brexit will be plain sailing for fisheries.

2. Drawing on oral evidence from four panels of witnesses and a limited number of written submissions from academics, think tanks, industry representatives, campaign groups and Government, we seek to highlight key opportunities and risks that will arise from disentangling UK fisheries from the EU, and the options available to the Government in the Brexit negotiations. In doing so, our focus is on fish that are caught, not farmed.

3. In keeping with the remit of our Committee, we focus on the UK's future relationship with the European Union. We acknowledge that fisheries management and international fisheries relations are immensely complex policy areas that cannot be addressed in full in this report.

The work of the Committees

4. Following the referendum on 23 June 2016, the European Union Committee and its six sub-committees launched a coordinated series of short inquiries, addressing the most important cross-cutting issues that will arise in the course of negotiations on Brexit. The pace of events means that these inquiries will necessarily be short, with only two or three public meetings in each case, and limited amounts of written evidence. But within these constraints, we are seeking to outline the major opportunities and risks that Brexit presents to the United Kingdom.

5. Our inquiries run in parallel with the work currently being undertaken across Government, where departments are engaging with stakeholders, with a view to drawing up negotiating guidelines. But while much of the Government's work is being conducted in private, our aim is to stimulate informed debate, in the House and beyond, on the many areas of vital national interest that will be covered in the negotiations. As far as possible we aim to complete this work before March 2017.

This report

6. We are grateful to the witnesses who gave oral evidence and to those who responded to our targeted request for written contributions. All views expressed in this report are of course our own.

7. **We make this report to the House for debate.**

CHAPTER 2: BACKGROUND AND CONTEXT

Fishing in the United Kingdom

8. Though the fishing industry is modest in size, if measured in economic output—in 2014 the fishing industry employed 11,845 fishers in the UK[1] and contributed some £426 million to GDP,[2] or less than half a percent of UK GDP[3]—fisheries have a much broader cultural, social and historic value. Fisheries are also crucial to the prosperity of many coastal communities across the United Kingdom. Despite fisheries' prominent role in the Brexit campaign, there are widespread concerns that fisheries will be pushed aside in the negotiations due to this relative economic insignificance.[4]

9. Fisheries management is a devolved matter, and the Devolved Administrations manage vastly different industries: the Scottish fishing fleet has fewer but larger vessels and lands the most fish in terms of volume as well as value,[5] whereas England, Wales and Northern Ireland have more fishers and vessels.[6]

The 'tragedy of the commons'

10. Fish are a vulnerable resource, prone to over-exploitation. They know nothing of political borders and many species move freely between national territorial waters throughout their life cycles.

Box 1: Tragedy of the commons

Where a resource is accessible to anyone and competitive in consumption, meaning that what is used by one person cannot be used by anyone else, it is rational for each consumer to consume as large a share of the resource as they can, without regard for the consequences of everyone acting in the same manner. This is known as 'the tragedy of the commons' and leads to over-exploitation.

Source: European Union Committee, The progress of the Common Fisheries Policy (21st Report, Session 2007–08, HL Paper 146)

11. In the absence of co-operative management of stocks that are shared by two or more countries, fish become vulnerable to over-exploitation, as the historic cod and mackerel 'wars' illustrate.[7] Such over-exploitation, Dr Thomas Appleby, Associate Professor at the University of the West of England, told us, involves "stealing fish from the adjacent coastal state or the next generation."[8] He concluded that "Co-ordination and a shared approach is the only tenable way to manage the resource to avert a 'tragedy of the commons'". The transboundary nature of fish also led the Government's

1 Marine Management Organisation, *UK Sea Fisheries Statistics 2014* (2015), p 1: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/462753/UK_Sea_Fisheries_Statistics_2014_-_online_version.pdf [accessed 7 December 2016]
2 House of Commons Library, *Brexit: What next for UK fisheries?*, Briefing Paper CBP7669, 27 July 2016
3 Written evidence from the New Economics Foundation (NEF) (FBR0007)
4 Written evidence from the Angling Trust (FBR0013), Fishing for Leave (FBR0002) and Dr Thomas Appleby (FBR0012); Q 14 (Bertie Armstrong)
5 Written evidence from Fergus Ewing MSP (FBR0011)
6 Q 13 (Barrie Deas)
7 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Fisheries report* (Summer 2014), p 14: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335033/fisheries-final-report.pdf [accessed 7 December 2016]
8 Written evidence from Dr Thomas Appleby (FBR0012)

2014 Balance of Competences Review to conclude that the majority of respondents supported some form of supranational fisheries management.[9]

12. In our 2008 report *The progress of the Common Fisheries Policy* we noted that fisheries were often used to illustrate the 'tragedy of the commons', for good reason, in that they constitute a mobile, public and renewable natural resource, which can be accessed by many and consumed only once. We concluded that the fundamental challenge for fisheries management was to prevent this phenomenon from taking its natural course. This challenge will remain even after the UK leaves the EU.[10]

The Common Fisheries Policy

13. The United Kingdom's approach to managing fisheries is largely determined by the European Union's Common Fisheries Policy (CFP), which was developed during the 1970s and early 1980s.[11] The objective of the CFP is to ensure that fishing is "environmentally, economically and socially sustainable", and to harmonise competition between fishers in the EU.[12]

14. The CFP manages fisheries in Member States through measures that control how many fish can be harvested each year (quotas), and through technical Regulations on, for instance, gear types. The CFP also provides some structural funding to fishing communities and fishers,[13] regulates marketing standards for fish products and autonomous tariff quotas for fish imports.[14]

Total Allowable Catches and quotas

15. Many commercial fish species are mobile demersal species that move in and out of national waters (such as plaice, cod, sole and haddock), or migratory pelagic species (such as herring and mackerel) that migrate over large distances.[15] Mobile and migratory species often have a number of stock units that equate with the management units used in European fisheries managements.[16] These stocks are typically managed using catch limitations in the form of Total Allowable Catches (TACs) and quotas.

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9 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Fisheries report*

10 European Union Select Committee, *The Progress of the Common Fisheries Policy* (21st Report, Session 2007–08, HL Paper 146)

11 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Fisheries report*

12 Article 2 of the CFP states that "the CFP shall apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield (MSY)".

13 In 2016, the UK was allocated €243 million from the European Maritime and Fisheries Fund. European Commission, 'European Maritime and Fisheries Fund (EMMF)': https://ec.europa.eu/fisheries/cfp/emff_en [accessed 7 December 2016]

14 European Commission, 'The Common Fisheries Policy': http://ec.europa.eu/fisheries/cfp_en [accessed 7 December 2016]

15 Written evidence from Defra (FBR0001)

16 The fish stocks are managed in accordance with scientific advice from the International Council on the Exploration of the Sea (ICES) which divides European seas into so-called ICES 'Divisions' and 'sub-Areas' that designate the geographical areas of sea in which stocks occur.

Box 2: Total Allowable Catches (TACs)

Total Allowable Catches (TACs) are catch limits that denote the volume of fish that may be caught, and should reflect the volume of fish that can be taken without undermining the sustainability of that stock. Not all fish are managed through TACs, though most commercial species are.

In the EU, Member States collectively agree TACs for most commercial fish stocks. Every year the European Commission proposes a TAC for these commercial species for each area within the EU zone. The proposal is based on scientific advice from the independent International Council on the Exploration of the Sea (ICES) and the EU Scientific, Technical and Economic Committee for Fisheries (STECF).

Scientists provide an assessment of the health and state of a given fish stock. Then, Member States agree what proportion of the stock can be exploited that year, bearing in mind that the TAC should enable fishing at a level that can produce the maximum sustainable yield (MSY) for harvested stocks by 2020.[17]

Source: European Commission, TACs and quotas: http://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/poster_tac2015_en.pdf [accessed 7 December 2016]

16. Once agreed, the TACs are divided among Member States in the form of national quotas. This is done on the basis of the 'relative stability' allocation key, which grants EU countries a fixed percentage of quotas for each of the fish stocks in question. For example, in 2015 the UK was allocated quotas amounting to 28,576 tonnes of North Sea haddock (equal to 84% of the EU quota) and 34,066 tonnes of North Sea plaice (equal to 28% of the EU quota).[18]

Box 3: Relative stability

Relative stability is an allocation key used to share out fishing opportunities between Member States. It was established in 1983 on the basis of historic catches, the loss of opportunities for some Member States as a result of the general extension of 200 nautical mile limits in 1976; and the need to protect particular regions where local populations were especially reliant on the fishing industry. The relative stability share has remained constant over time.

Source: HM Government, Review of the Balance of Competences between the United Kingdom and the European Union: Fisheries report, p 14

17. Each Member State must allocate the quotas that it receives to fishers in its country using transparent and objective criteria. The current method of allocating quotas within the UK is thus a national competence.[19] It has been criticised for disadvantaging smaller vessels.[20]

17 Through negotiations in the Fisheries Council Fisheries Ministers have in the past agreed TACs above the level advised. Written evidence from the NEF (FBR0007)

18 Paul G Fernandez and Dr Bryce Stewart, 'Fact Check: is 80% of UK fish given away to the rest of Europe?', *The Conversation* (April 14 2016): https://theconversation.com/fact-check-is-80-of-uk-fish-given-away-to-the-rest-of-europe-39966 [accessed 7 December 2016]; European Commission, *Fishing TACs and quotas 2015*: http://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/poster_tac2015_en.pdf [accessed 7 December 2016]

19 In the UK, national quotas are distributed on the basis of "Fixed Quota Allocation" (FQA) units held by groups of vessels or producers' organisations. These FQA units are based on vessels' historic landings during a fixed reference period.

20 'Greenpeace seeks legal action over unfair fishing quota', *Greenpeace* (26 January 2015): http://www.greenpeace.org.uk/media/press-releases/greenpeace-seeks-legal-action-over-unfair-fishing-quota-20150126 [accessed 7 December 2016]

Box 4: Maximum Sustainable Yield[21]

Maximum Sustainable Yield (MSY) is the largest average catch (or yield) that can continuously be taken from a stock under existing environmental conditions without decreasing the stock's ability to yield fish in future years. This is determined by calculating the population weight or biomass that is added every year, and then deducting its natural mortality.

When stocks are overfished advice will be given to bring them to fishing mortality levels that correspond with MSY. This results in a reduction in catch in the short-term with the expectation that catch will increase in the longer-term.

The ICES MSY approach is based on a long-term strategy whereby catch rates are fixed, enabling fish stocks to reproduce so that exploitation can occur in sustainable economic, environmental and social conditions.

Source: Seafish, Industry guidance note: Maximum Sustainable Yield (MSY) (March 2011): http://www.seafish.org/media/Publications/SeafishGuidanceNote_MaximumSustainableYield_201103.pdf [accessed 7 December 2016]

18. For stocks that are shared[22] and jointly managed with non-EU countries, the TACs are agreed with those (groups of) countries bilaterally or in coastal state negotiations, often through Regional Fisheries Management Organisations (RFMOs).[23] The European Commission negotiates the TACs, the proportion of the TAC that the parties receive and mutual access to fishing in EU and third party waters on behalf of Member States.[24]

19. In order to harmonise competition between fishers in the EU, the Exclusive Economic Zones (EEZ) of all Member States are considered one joint EU zone, also known as 'EU waters'. The CFP regulates the fishing activities within the EU zone, though Member States have retained competence over the regulation of fishing activities in inshore waters (defined as the 0–12 nautical mile zone off the baseline of the coast). The 0–6 nautical mile limit is preserved for domestic fishing activities, whereas some Member States have historic rights to fish in the 6–12 nautical mile zone in other EU countries.[25]

21 Q 2; Dr Stewart noted that MSY has been described by some as a target that should not be overshot, because overshooting it would lead to overfishing of a stock and subsequent stock decline.

22 Shared fish are those fish that move between two or more coastal state EEZs in their lifecycle. Straddling stocks are those stocks that move between the EEZs of coastal states and high seas, i.e. sea that lies beyond an EEZ.

23 European Commission, 'The Common Fisheries Policy - Management of EU Fisheries': http://ec.europa.eu/fisheries/cfp_en [accessed 7 December 2016]

24 There are currently a number of agreements with third party countries, the most substantial of which are the 'Northern Agreements' between the EU and Norway, Iceland and the Faroe Islands. European Commission, 'Bilateral Agreements with countries outside the EU': https://ec.europa.eu/fisheries/cfp/international/agreements_en [accessed 7 December 2016]

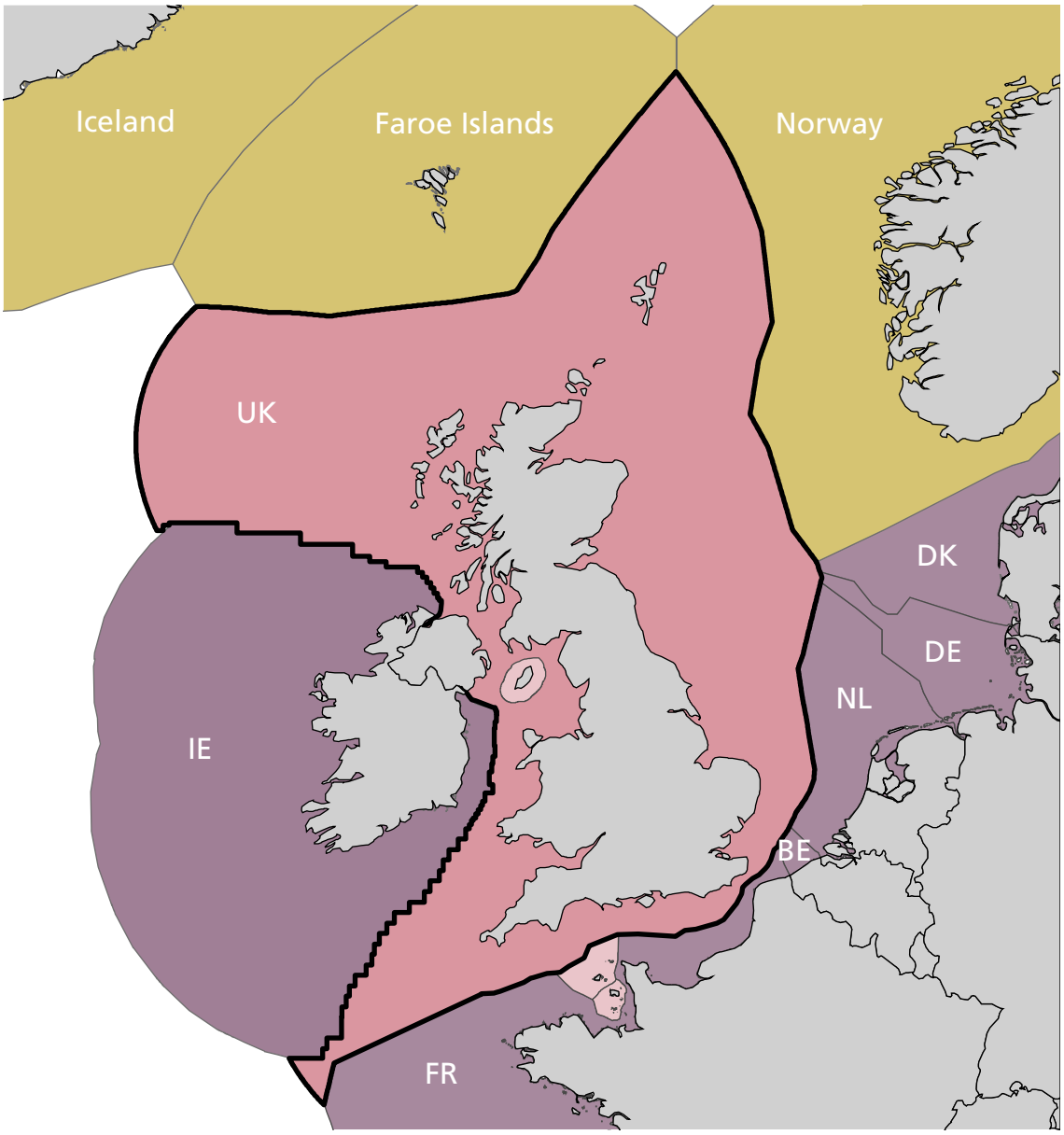
25 Inshore waters are defined as the 0-12 nautical mile zone from the baseline of the coast. Through subsequent reforms of the CFP, derogations have been made from the principle of equal access preserving the inshore zone to Member States, and those states who enjoy historic access rights to the 6-12 nautical mile inshore zone of other countries, as set out in Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, 20 December 2002, OJ L 358/59; European Commission, 'Access to Waters—Managing Fisheries': http://ec.europa.eu/fisheries/cfp/fishing_rules/access-to-waters_en [accessed 7 December 2016]

Box 5: Exclusive Economic Zone

The state has the right to establish a territorial sea up to a limit of 12 nautical miles measured from the baseline. The EEZ is an area of sea beyond and adjacent to the territorial sea that extends up to 200 nautical miles from a country's coast. Where the EEZs of two adjacent countries overlap, a median line is defined equidistant from the two countries' coastlines to separate their respective EEZs. Within the EEZ a coastal state has the sovereign rights for the purpose of exploring and exploiting, conserving and managing the living natural resources.

Source: United Nations, United Nations Convention on the Law of the Sea (UNCLOS), 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm [accessed 5 December 2016]

Figure 1: Map of the UK EEZ[26]



Based on Joint Nature Conservation Committee, Map showing relationship between different boundaries used under national and international obligations at a UK scale (2014): http://jncc.defra.gov.uk/pdf/UK%20obligations_boundaries_UK%20scale.pdf [accessed 2 December 2016]

26 The UK Exclusive Economic Zone is adjacent to six EU countries, namely Ireland, France, Belgium, the Netherlands, Germany and Denmark, as well as non-EU countries such as Norway and the Faroe Islands and non-exclusive high seas.

20. Fishers registered in any Member State enjoy equal access to fishing in the 12–200 nautical miles of the EU zone.[27] However, as outlined above, most commercially-fished stocks in EU waters are regulated through quotas that determine which quantities of a given fish stock a vessel may catch each year.

An unpopular policy

21. The CFP has historically been criticised for mismanaging stocks and incentivising overfishing.[28] Barrie Deas, Chief Executive of the National Federation of Fishermen's Organisations, said that the CFP had not "covered itself in glory over its history",[29] while Bertie Armstrong, Chief Executive of the Scottish Fishermen's Federation, called it "unfit for purpose".[30]

22. Fisheries featured prominently in the Leave campaign leading up to the referendum. Many within the industry feel that, thanks to the principle of equal access, fisheries were "sold down the river" when the UK acceded to the European Economic Community.[31] Fisheries has therefore been highlighted as a policy area where the UK has much to gain from leaving the EU. Fishing for Leave, a campaign group that campaigned actively for leaving the EU, told us: "It is CRITICAL that for either political convenience or a minority of industry interest that the CFP is not replicated into British law."[32]

23. In the years since UK accession the CFP has undergone substantial reform, not least thanks to the continued efforts of successive UK Governments.[33] Key elements of the reform, some of which are still being implemented, were a stronger commitment to MSY; the introduction of a 'landing obligation' to eliminate discarding of fish at sea; and regionalisation of governance enabling Member States that share fisheries at a sea basin level to agree and enact regional decisions in EU or national law. Regionalised strategies for fisheries management are increasingly implemented through multi-annual plans (MAPs), which set regional targets and conservation measures for single or mixed species in areas such as the North Sea. The Government broadly supports this approach.[34]

27 European Commission, 'The Common Fisheries Policy - Management of EU Fisheries': http://ec.europa.eu/fisheries/cfp_en [accessed 7 December 2016]
28 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Fisheries report*
29 Q 12
30 Q 14
31 Written evidence from UKIP (FBR0009) and Fishing for Leave (FBR0002); Q 14 (Bertie Armstrong)
32 Written evidence from Fishing for Leave (FBR0002)
33 HM Government, *Review of the Balance of Competences between the United Kingdom and the European Union: Fisheries report*
34 See for example, Government Explanatory Memorandum, Proposal for a Regulation of the European Parliament and of the Council on establishing a multi-annual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks and repealing, 3 August 2016, COM(2016) 493

Brexit and the CFP

24. Withdrawing from the EU will inevitably mean withdrawing from the Common Fisheries Policy.[35] To many in the fishing industry Brexit is therefore a "sea of opportunities".[36] We heard that Brexit was an opportunity for the UK to adopt a new fisheries management regime, tailored to UK conditions.[37] We also heard that by revoking the principles of equal access and relative stability, fishing opportunities could be increased.[38]

25. Yet fisheries are also a highly complicated policy area, not least in the light of Brexit. The majority of legislation regulating fishing activity in what will be UK waters originates from the EU, and must either be replaced or preserved before withdrawal from the EU takes effect in order to prevent what Richard Barnes, Professor of Law at the University of Hull, referred to as a "regulatory deficit".[39] His concern was shared by the New Economics Foundation (NEF), the Institute for European Environmental Policy (IEEP) and Dr Appleby.[40] Prime Minister Theresa May MP has announced that the Government will introduce a Great Repeal Bill that will carry over existing EU law into domestic law until such a point in time where it can be replaced with domestic legislation. It is possible that such a Bill could preserve many of the Regulations that manage fishing activities in what will be the UK EEZ, thereby minimising the risk of a regulatory deficit.

26. However, other elements of the CFP do not lend themselves to a Great Repeal Bill approach: when the UK leaves the EU, it will no longer take part in Council negotiations or the annual setting of TACs for shared stocks. The UK will also cease to be included in the quotas and mutual access agreements the European Commission negotiates on behalf Member States with third parties. Without this framework for co-operation, stocks that are shared between the UK and the EU risk becoming over-exploited.

35 The EU has exclusive competence for fisheries management through Article 38, Treaty on the Functioning of the European Union, OJ C 326 (consolidated version of 26 October 2012). When the UK withdraws from the EU, it will withdraw from the Treaty. Even in the closely related trade and regulatory relationship between European Economic Area (EEA) countries and the EU, fisheries is excluded.

36 'Scottish Fisheries Post-Brexit: A Sea of Opportunities', *Scottish Fishermen's Federation* (13 September, 2016): http://www.sff.co.uk/scottish-fisheries-post-brexit-sea-of-opportunities/ [accessed 7 December 2016]

37 Q 12 (Barrie Deas, Bertie Armstrong)

38 Written evidence from Fishing for Leave (FBR0002)

39 Q 1

40 Written evidence from the NEF (FBR0007), the Institute for European Environment Policy (IEEP) (FBR0003) and Dr Thomas Appleby (FBR0012); Q 1 (Prof Richard Barnes)

CHAPTER 3: A NEW LEGAL BASELINE

United Nations Convention on the Law of the Sea

27. The United Nations Convention on the Law of the Sea (UNCLOS) III was adopted in 1982 and regulates activities at sea. It grants states the sovereign right to govern their respective Exclusive Economic Zones (EEZs), though in recognition of the vulnerability of fish as a natural resource, UNCLOS obliges countries ('coastal states') to manage their living resources in a sustainable manner. For fish stocks that occur in the EEZs of two or more coastal states ('shared stocks') there is an obligation to co-operate on their management.[41] Notably, the right to establish an EEZ was agreed after the UK joined the EU.

The Fish Stocks Agreement

28. Fish stocks that are highly migratory or straddle the EEZs of coastal states and the adjacent high seas ('straddling stocks') are further regulated through the 1995 United Nations Fish Stocks Agreement.[42] This Agreement obliges coastal states to co-operate in relation to the management, exploitation and conservation of straddling and highly migratory stocks, such as mackerel, either directly or through appropriate sub-regional fisheries management organisations.[43] The co-operation must be based on scientific advice and must seek to preserve the sustainability of stocks.

An independent coastal state

29. It was widely assumed by witnesses, and confirmed by the Minister of State for Environment, Food and Rural Affairs, the Rt Hon George Eustice MP, that upon withdrawing from the EU, the UK will assume control of the UK EEZ.[44] The UK will then become an independent coastal state bound by the obligations of UNCLOS and the Fish Stocks Agreement. Professor Barnes explained that:

> "All states are parties to the United Nations Convention on the Law of the Sea, which has particular provisions on the exclusive economic zone, and coastal states are granted sovereign rights for the purpose of exploring/exploiting the natural resources of the EEZ. This … is a right to govern as it will, but it is subject to certain rights and responsibilities. The rights are to enjoy the resources, but obviously whether or not the resources are exclusive to those waters is another question. There are also certain responsibilities, which are to co-operate in the management of the fish stocks there."[45]

41 Article 63(1), UNCLOS, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm [accessed 5 December 2016]

42 The general principles of the Agreement are set out in Article 5, Agreement for the implementation of the provisions of the United Nations convention on the law of the sea, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm [accessed 5 December 2016

43 Article 63, UNCLOS, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm; Article 8, Agreement for the implementation of the provisions of the United Nations convention on the law of the sea, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm [accessed 5 December 2016]

44 Written evidence from Dr Thomas Appleby (FBR0012), Fishing for Leave (FBR0002) and UKIP (FBR0009); Q 2 (Prof Robin Churchill), Q 12 (Barrie Deas) and Q 35 (George Eustice MP)

45 Q 5

30. The UK must determine the total allowable catch of the living resources in its EEZ.[46] It must also ensure the maintenance of fish stocks through conservation and management measures. These must be designed to maintain or restore stocks to levels that can produce the maximum sustainable yield, taking into account the best scientific evidence available.[47] It is for the UK to decide how fish stocks may be harvested within its EEZ and by whom.[48]

31. Robin Churchill, Professor Emeritus of International Law at the University of Dundee, explained that under Article 63(1) of UNCLOS "there is an obligation on states in whose waters the same stocks occur, what are generally called in shorthand 'shared stocks', to co-operate in the management of them." He noted: "The details of how that is to be done are very vague, but there is a general obligation to co-operate."[49] He added that "there is a further obligation to co-operate in respect of species which are found both within national limits, the 200-mile zone, and on the high seas beyond … which is spelt out in much more detail in the Fish Stocks Agreement of 1995".

32. Where fish stocks are not exclusively found in UK waters, then, the UK must co-operate on the management of the stocks.[50] Prof Churchill explained: "most of the fish stocks found in the waters of the UK are actually shared with our neighbours, be it the EU, Norway, the Faroe Islands or, in some cases, all three".[51] How the UK decides to pursue its general obligations to co-operate with the EU and other neighbouring states will be a matter for negotiations before and after Brexit.

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

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

Accessing the EEZ

35. Another fundamental change relates to access to fishing in the UK EEZ. Under international law, any decision to allow foreign vessels access to fish in UK waters will be a matter for bilateral negotiation and agreement between the UK and other coastal states. In the words of Prof Churchill:

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46 Article 61(1) UNCLOS, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm [accessed 5 December 2016]

47 Article 61(2) UNCLOS, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm [accessed 5 December 2016]

48 Article 62(4) UNCLOS, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm [accessed 5 December 2016]

49 Q 2

50 Article 63 UNCLOS, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm [accessed 5 December 2016]; Article 8, Agreement for the implementation of the provisions of the United Nations convention on the law of the sea, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm [accessed 5 December 2016]

51 Q 1

> "There is a distinction between what is said in the UN Convention on the Law of the Sea and what tends to happen in practice. … as far as the Convention is concerned … if in a particular coastal state's EEZ the coastal state is capable of harvesting the entire allowable catch, it is under no obligation to allow any other fishermen from other states to fish there, so it can take the whole of the allowable catch. Where an obligation to admit other fishers comes in—again, this is on the theory of the convention—that is where the coastal state does not take the whole of the allowable catch and there is a surplus. It must admit other states to the surplus, but again it has a discretion … but only where there is a surplus."[52]

36. Prof Barnes concurred, noting that "there are obligations to provide a surplus where we cannot catch [the TAC], so, regardless of whether we are in or out of Europe, that would still apply".[53] Where such a surplus exists, Article 62(3) of UNCLOS will require the UK to minimise the economic dislocation in states whose nationals have habitually fished in a given EEZ and have made substantial efforts in research and identification of stocks.[54] The NEF argued that EU Member States were likely to draw on this article to claim a right of continued access to fishing in the UK EEZ if the UK were to close off access entirely.[55] This point was also raised by Dr Bryce Stewart, Lecturer at the University of York, who noted: "For the last 30 years, a lot of European nations have been fishing in British EEZs".[56]

Historic access rights

37. In the course of the Referendum campaign, some argued that historic rights to fishing in the 6–12 nautical mile limit would have to be respected in any future settlement for accessing the UK EEZ. But we heard from legal experts that this may not be the case. Prof Barnes told us that historic rights were hard to define, but suggested that they were "rights that have been asserted by states on the basis of some form of practice or usage over a considerable period of time which had not been objected to and have been acquiesced to".[57] He added: "For European waters, I take the position that most of the historic rights, medieval or later, have largely been reduced down to those which are captured within the Fisheries Convention."[58] Prof Churchill told us that the London Fisheries Convention had worked to the detriment of the UK, because "the UK only has rights in five areas of coast, whereas I think there are 32 areas of the British coast where other states can fish."[59]

38. Prof Churchill and Prof Barnes agreed that the Convention had been superseded by EU law and that the rights were now captured in the annex to the Council Regulation 2371/2002.[60] Prof Churchill explained:

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52 Q 5
53 Q 5
54 Article 62(3) UNCLOS, 10 December 1982: http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm [accessed 5 December 2016]
55 Written evidence from the NEF (FBR0007)
56 Q 6
57 Q 6
58 Q 6
59 Q 6
60 Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, 20 December 2002, OJ L 358/59

> "So far as the Member States are concerned, these rights to fishing in the outer six miles, which is what people generally mean when they are talking about historic rights, derive from EU law. They do not derive any longer from the 1964 Convention, because that allowed the EU to have its own regime. The basic regime in the EU is equal access, and the 12-mile limit with the six to 12-mile historic rights are an exception to equal access, so those rights derive from EU law. … when the UK leaves the EU, the Common Fisheries Policy and that Regulation will no longer apply, so … will these rights from 1964 suddenly revive after 40 years? I am rather sceptical about that, but, even if they do… the UK could cover itself and withdraw from that."[61]

39. Dr Appleby agreed that the UK could lawfully withdraw from the London Convention and the historic rights contained therein, but noted that withdrawal would take two years, and could have diplomatic consequences for the wider Brexit negotiations.[62]

Access and co-operation

40. Some witnesses told us that the UK should discontinue the principle of equal access. UKIP found it politically desirable "to gradually restrict access to foreign vessels, which will finally facilitate the proper conservation and management of our UK fish stocks, which is long overdue".[63] Fishing for Leave argued that: "With the UK having the lion's share of resources, reciprocal access, forced unrestricted upon us through the founding tenant [*sic*] of the CFP … is a one-way street massively to our detriment."[64] Access, they argued, should therefore only be negotiated "when absolutely necessary".

41. The majority of witnesses drew on the precedent set by coastal states such as Norway, and argued that the UK would be best served by some degree of reciprocal access arrangements for fishing within the EEZs of neighbouring states. Prof Churchill explained that "in practice states often admit foreign vessels to their waters because they want to get reciprocal access to the waters of the other state". He continued:

> "This happens on a considerable scale with the EU and Norway where the EU is interested in fishing in Norwegian waters for cod, say, because that is a particular interest, and then it is happy to allow Norwegians to fish for more mackerel in the EU zone, even though in neither case is there a surplus."[65]

42. This enabled vessels that were specialised in fishing for certain stocks or in certain waters to maximise their fishing patterns, something on which, according to Mr Vidar Landmark, Director General in the Department for Fisheries and Aquaculture at the Norwegian Ministry of Trade, Industry and Fisheries, Norway places great emphasis.[66] He told us that the EU and Norway allow fishers to fish their quota "where it is most profitable, whether or not that will be in the Norwegian zone or the EU zone", ensuring

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61 Q 6
62 Written evidence from Dr Thomas Appleby (FBR0012)
63 Written evidence from UKIP (FBR0009)
64 Written evidence from Fishing for Leave (FBR0002)
65 Q 5
66 Q 28

that these stocks are caught in the most economically beneficial area, and conversely are not caught in areas where they may be spawning.[67]

43. Mr Landmark also told us that the TACs for "most of the Norwegian stocks" were set "in negotiation with other countries" and that Norway had not been tempted to exploit resources in the Norwegian EEZ unilaterally. He noted that some stocks depended on using the EEZs of other countries throughout their lifecycles and, as a result, "isolating us from our neighbours would jeopardise the situation for those stocks—and our industry also sees this."[68]

44. A complete closure of the UK EEZ to foreign vessels would probably only be possible if the UK chose not to co-operate with neighbouring coastal states. Prof Churchill told us that "the result is likely to be that fish stocks which are shared—most commercial species around the coast of Britain—would simply become overfished, so it would be rather a hollow victory".[69] Dr Stewart concurred, and noted that a full restriction of access to the UK EEZ would be "very damaging obviously to diplomatic relations, trading relations and all the rest of it".[70] A similar point was made by Dr Appleby, who wrote that revoking historic access rights could have "diplomatic consequences in bilateral relations over and above those which will be part of the Brexit discussions".[71]

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

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

Quota-hopping

47. Though the UK could choose to restrict EU vessels' access to fishing in the EEZ, such restrictions would not automatically apply to quota-hopping vessels. Prof Churchill explained that "Quota hopping is possible because of freedom of establishment", not because of the Common Fisheries Policy.[72] The EU Right of Establishment[73] allows EU nationals to establish businesses freely in other Member States and therefore also to purchase UK fishing vessels and use UK quotas.

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67 Q 28
68 Q 24
69 Q 8
70 Q 8
71 Written evidence from Dr Thomas Appleby (FBR0012)
72 Q 9
73 See Articles 49–55, Treaty on the Functioning of the European Union

Box 6: Quota hopping[74]

Quota hopping denotes the practice of fishers from other Member States benefiting from UK quotas by setting up UK companies to buy UK fishing vessels and thereby quotas.

The Merchant Shipping Act 1988 imposed nationality requirements on vessels seeking to benefit from quotas granted to the UK under the CFP. This gave rise to the 1991 *Factortame* line of cases in which the Court of Justice of the EU ruled, among other matters, that the Act was in breach of EU law.

Source: European Union Committee, The Progress of the Common Fisheries Policy (21st Report, Session 2007-08, HL Paper 146)

48. Prof Churchill thought that the Government would want to preserve freedom of establishment at least in some sectors. He argued it would be "a matter for negotiation whether it is for all sectors or some sectors".[75] This point was echoed by the UK Seafood Industry Alliance (SIA), which noted that the issue was likely to feature in the "wider discussions of the 'four freedoms' associated with the Single Market".[76] The Minister recognised that the legal status of quotas held by non-UK nationals after Brexit was complicated and unclear. He said that, after Brexit, the UK could "look at the allocation of quotas to foreign vessels", but he noted that "we may want to take regard of the fact that in many cases these are commercial entities which bought British vessels and inherited the quota that went with them".[77] He concluded that "there are arguments on both sides", and added that it was an "intricate" area which had to be discussed within the Government in due course. Restricting access to fishing vessels from other EU countries will therefore not necessarily end the practice of quota hopping. Whether quota-hopping will remain possible after Brexit will be determined by the outcome of the wider negotiations.

49. The Government could seek to ensure that domestic quotas deliver benefits to the UK, regardless of quota-hopping, by strengthening the 'economic link'. The economic link is a set of conditions that vessels using UK quotas must comply with to illustrate that the quotas benefit UK communities. The NEF suggested that after Brexit: "These conditions could be made more stringent if there is an issue with foreign-owned vessels not contributing sufficiently to the UK."[78] Dr Stewart and Fishing for Leave agreed.[79]

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

74 Court cases (1989) 2 WLR 997; (1989) UKHL 1; (1990) 2 AC 85; (1990) UKHL 7; (1991) 1 AC 603; and (1999) UKHL 4
75 Q 9
76 Written evidence from UK Seafood Industry Alliance (FBR0008)
77 Q 38
78 Written evidence from the NEF (FBR0007)
79 Q 9; written evidence from Fishing for Leave (FBR0009)

CHAPTER 4: DOMESTIC POLICY FIT FOR PURPOSE

The Great Repeal Bill

51. As an independent coastal state, the UK will be entitled, and obliged, to manage the exploitation and conservation of fish within its EEZ in a sustainable way. Brexit, we heard, is therefore an opportunity for the UK to design a domestic fisheries management regime that is tailored to the mixed fisheries[80] that prevail in UK waters.[81] Mr Deas told us that the new regime should strive to deliver the "twin objectives" of sustainable and profitable fishing, taking into account the biological, legal, political and economic realities.[82] Fishing for Leave similarly noted that Brexit was an opportunity to review the ways in which the UK manages fisheries, to ensure that the approach will be "applicable and suitable" to the marine environment it seeks to regulate.[83]

52. We also heard that replacing current Regulations will take time and that, were the UK to repeal the CFP without replacing it with new legislation, a legislative deficit could arise.[84] Professor Barnes argued that legislating to fill regulatory gaps filled by leaving the EU would be "absolutely critical", and would buy time for the UK to consult and develop a UK fisheries regime.[85]

53. The Minister, George Eustice MP, acknowledged that "We cannot have … a vacuum or period of chaos when there is no regulation at all."[86] He added:

> "There is a spectrum of options available. One would be to have, in the time we have, a fundamental look at the technical measures and look at where we would like to make changes, where we would like things to remain the same and try to roll forward the things we want to keep into a UK legal basis, and change the bits we want to change again on a UK basis. The alternative, at the other end of the spectrum … is to nationalise the *acquis* in one bang and, over time, evolve that and refine it so it better suits our needs and deals with the challenges we have. There is a spectrum there of trying to be quite ambitious on the things we would like to change … or taking a more cautious approach that … gives the opportunity to think things through carefully and refine some of the technical regulations over time."[87]

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

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80 Mixed fisheries are those fisheries in which more than one species is present and where different species are likely to be caught in the same fishing operation. Vessels fishing for one species are therefore likely to catch other, un-targeted species as well (known as 'by-catch').

81 Written evidence from Fishing for Leave (FBR0002), the Angling Trust (FBR0013) and UKIP (FBR0009); Q 1 (Dr Bryce Stewart), Q 12 (Barrie Deas and Bertie Armstrong) and Q 35 (George Eustice MP)

82 Q 12

83 Written evidence from Fishing for Leave (FBR0002)

84 Written evidence from Dr Thomas Appleby (FBR0012); Q 11 (Prof Richard Barnes)

85 Q 10

86 Q 33

87 Q 33

Opportunities for reform

55. It is not the intention of this report to recommend what a future UK fisheries management regime should be, but witnesses did raise a number of opportunities for reform, which we briefly outline below.

Coastal communities

56. Fishing for Leave argued that, in repatriating fisheries management, the UK could "implement a decent, fit for purpose management policy for the benefit of the whole UK industry, all involved within the industry and the coastal communities that depend upon it."[88] Indeed many submissions argued that the UK had an opportunity to recognise the interests of the coastal communities, maximising the potential economic, environmental and social benefits of fishing and including localised interests within the fisheries management regime.[89] Hazel Curtis, Chief Economist for Seafish, explained:

> "[Brexit] is an opportunity to consider within the Devolved Administrations what is wanted from the fishing industry, what benefits society wants from fishing: do you want to maximise jobs, do you want to maximise profits, do you want to maximise community ownership? … It is an opportunity to look afresh and be clear about what society wants to achieve from having a fishing industry."[90]

57. We were interested to hear that other coastal states have put similar objectives at the heart of fisheries management. Mr Sigurgeir Thorgeirsson, Senior Advisor on fisheries to the Icelandic Minister for Industry and Innovation, told us that Iceland aimed to secure sustainable fisheries management and to use fish stocks "in such a way as to maximise the economic and social benefits to the nation as a whole".[91] In a similar vein, Mr Landmark told us that the Norwegian fisheries management policy aimed to "secure biological sustainability and economic, sound fisheries to make sure that our resources are utilised to the benefit of our coastal communities".[92]

Revising technical Regulations[93]

58. We also heard that the existing management measures should be replaced with Regulations that were tailored to the UK. Industry representatives made it clear that replicating the CFP into UK law in its current form was unappealing. Mr Deas told us: "the sphere of technical measures is where it [the CFP] has been most dysfunctional". He continued:

> "There is a great deal of relief in the UK catching sector that we have an opportunity to move away from that and design and deliver something that is tailored more to our fleets and is more responsive and dynamic than the very cumbersome decision-making system that we have operated under within the EU."[94]

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88 Written evidence from Fishing for Leave (FBR0002)

89 Written evidence from the Angling Trust (FBR0013), Fishing for Leave (FBR0002), the IEEP (FBR0003) and UKIP (FBR0009); Q 1 (Prof Richard Barnes) and Q 13 (Hazel Curtis)

90 Q 13

91 Q 22

92 Q 22

93 Technical Regulations are measures that regulate how, where and when fishers may fish. This includes Regulations on minimum landing sizes of fish, minimum mesh sizes for fish nets and area closures. European Commission, 'Technical Measures - Managing Fisheries': https://ec.europa.eu/fisheries/cfp/fishing_rules/technical_measures_en [accessed 7 December 2016]

94 Q 12

59. Mr Armstrong agreed: "The default position of just taking [the CFP] on and running it the way it always has been would be very silly".[95] He added that the UK could do "much better" once it could put in place its own Regulations without deliberation within the Council and the European Parliament.[96] Fishing for Leave also suggested that a new UK fisheries management regime should "rationalise the multitude of technical measures into a concise UK wide set of standards."[97]

60. One particular area of concern was the discard ban.[98] To Mr Armstrong this was "the most perfect example of a CFP gone wrong", because the objective of the policy was unworkable.[99] But other witnesses, including Fergus Ewing MSP, the Scottish Cabinet Secretary for the Rural Economy and Connectivity, including fisheries, supported preserving the obligation or tailoring it to UK conditions.[100] The Minister, George Eustice MP, noted that the discard ban was a Conservative Party Manifesto commitment, though he recognised that the UK should "make maximum use of all the flexibilities, all the tools in the box that are in that policy, so that we can make it work in practice as well as in theory".[101] Mr Landmark suggested the UK could make the discard ban more effective if it accompanied the landing obligation with technical measures designed to avoid catching the unwanted fish that must otherwise be landed, thus minimising fish mortality at sea.[102]

61. Mr Landmark highlighted that "not being part of the Common Fisheries Policy gives [Norway] the possibility of a far more dynamic approach to fisheries management".[103] Mr Thorgeirsson agreed: "The decision-making process in Iceland is much simpler and closer to the actions of the industry than in the EU".[104] He told us of dynamic policy changes in Iceland, where skippers were obliged to listen to the radio at certain times of the day, when new or changed measures would be communicated. The Minister also suggested that Brexit was an opportunity "to expedite changes in technical measures where we deem them necessary", making it easier to change technical Regulations.[105]

62. We note that the increased use of regionalisation under the reformed CFP has already led to a process by which Member States with a direct interest in a basin submit joint recommendations for achieving the objectives of multi-annual plans, which the Commission can then adopt in a Commission Act making the recommendations applicable.[106] We also note that the Minister has in the past supported the ongoing efforts to regionalise the CFP, and has

95 Q 21
96 Q 12
97 Written evidence from Fishing for Leave (FBR0002)
98 The 2013 reform of the CFP introduced an obligation to land all fish caught in EU waters. This landing obligation is also referred to as the 'discard ban' and seeks to minimise the wasteful practice of discarding fish at sea. The UK was a key advocate of the ban in negotiations.
99 Q 12
100 Written evidence from Fergus Ewing MSP (FBR0011), Dr Thomas Appleby (FBR0012), WWF (FBR0010), the IEEP (FBR0003) and the Marine Conservation Society (FBR0006); Q 2 (Dr Bryce Stewart)
101 Q 35
102 Q 23
103 Q 30
104 Q 23
105 Q 32
106 European Commission *Regionalisation - Managing fisheries*: http://ec.europa.eu/fisheries/cfp/fishing_rules/regionalisation_en [accessed 7 December 2016]

in correspondence with the Committee said that he was "extremely pleased" with how the new process of regionalisation in fisheries management worked.[107]

Domestic quota allocations

63. Most commercially fished species are managed through quotas. While some witnesses advocated an effort-based system instead of quotas,[108] the NEF argued that, despite former challenges with the implementation of the system, quotas had led to a decline in overfishing, growth in the size of stocks and rising industry profits.[109] Dr Appleby thought it unfeasible to abandon quotas altogether, because they were a currency in international fisheries management. He emphasised that replacing them would require supranational agreement to preserve international co-operation[110]—a view shared by the NEF.

64. The domestic quota allocation to vessels in the UK has been a source of vexation for the industry, particularly on the grounds that quotas are increasingly concentrated in the hands of a few, large businesses.[111] Dr Stewart, reflecting the fact that the UK quota allocation is a national competence under the CFP, stated that issues associated with domestic quota allocations were not "necessarily to do with the EU". But he believed that a Brexit revision of fisheries policy could lead to a review of quota distribution, addressing claims that small boats are disadvantaged.[112] The Angling Trust also highlighted the potential for accommodating small scale fishermen.[113]

65. The extent to which the Government chooses to revise the domestic quota allocation system is beyond the scope of this report, though we note Brexit could lead to a review of current practices.[114] We also note the Minister's commitment to maintaining "some sort of quota system".[115]

Wider environment

66. We heard that Brexit could be an opportunity for the United Kingdom to integrate sustainability across hitherto separate policy areas, so as to address the wider interests of the marine environment.[116] Though this report focuses on fisheries only, we recognise that the sustainability of fish stocks is inextricably linked to the sustainability of the wider marine environment.

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107 Letter from George Eustice MP to Lord Boswell, 7 December 2014: http://europeanmemoranda.cabinetoffice.gov.uk/files/2014/12/14543–14_Min_Cor_7_December_2014_Eustice-Boswell.pdf, regarding, Explanatory Memorandum for European Union 14543/14 on Commission Delegated Regulation (EU) establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea, 20 October 2014: http://europeanmemoranda.cabinetoffice.gov.uk/files/2014/11/14549-14.pdf

108 For more details about this proposed management model please see the written evidence from Fishing for Leave (FBR0002), UKIP (FBR0009) and former fishing gear manufacturer John Ashworth (FBR0004)

109 Written evidence from the NEF (FBR0007)

110 Written evidence from Dr Thomas Appleby (FBR0012)

111 Written evidence from the NEF (FBR0007)

112 Q 1 (Dr Bryce Stewart)

113 Written evidence from the Angling Trust (FBR0013)

114 Professor Philip Booth suggested that the UK could draw on the Icelandic example to establish a domestic quota system that established property rights in fisheries in perpetuity, giving fishermen an incentive to strive for sustainable TACs, and was freely tradable. Written evidence from the Institute of Economic Affairs (FBR0014)

115 Q 32

116 Written evidence from the IEEP (FBR0003), the SIA (FBR0008), WWF (FBR0010) and the Angling Trust (FBR0013); Q 1 (Prof Robin Churchill)

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

Constraints

Sustainable stocks: commitment to MSY

68. All witnesses, irrespective of their view on the extent to which CFP policies should be preserved in UK law, agreed that sustainability should continue to be a guiding principle after Brexit, and that fisheries management should continue to be science-led.[117] The Marine Conservation Society noted that "Ensuring fishing at MSY for all stocks must remain an integral part of any fisheries management in the UK".[118] This, the IEEP told us, would protect fish resources "in the long term from further destruction and overexploitation", and respect the UK's commitment to the Sustainable Development Goals.[119] Industry representatives agreed. Barrie Deas told us: "Measured in terms of tonnage, about 80% of our stocks are at maximum sustainable yield, and … we do not want to move away from that, as we have a big interest in high-yield fisheries".[120]

69. MSY will not be achieved without political will. The Angling Trust expressed concern that long-term benefits arising from stock improvement had often been compromised by misguided attempts to increase short-term profits for the catching sector.[121] The NEF agreed.[122] But the Minister told us that "I was always clear in the campaign that there are certain things that we would not change… even outside the European Union. One is targeting MSY".[123] He added that he had campaigned for the UK to leave the EU on the basis that "fishing sustainably would remain a key tenet of UK policy."[124]

70. The Angling Trust argued that "For shared stocks the UK cannot achieve MSY on its own." They explained that if the UK moved towards MSY for shared stocks faster than the EU, the UK fishing fleet would be at a competitive disadvantage when fishing those stocks. Consequently neither the UK nor the EU could achieve MSY for shared stocks without the other. They concluded: "It is therefore in the national interest of the UK to ensure that MSY is reached as quickly as possible in conjunction with the EU".[125]

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117 Written evidence from the Angling Trust (FBR0013), Fergus Ewing MSP (FBR0011), John Farnell (FBR0005), the IEEP (FBR0003), the SIA (FBR0008), UKIP (FBR0009), Fishing for Leave (FBR0002) and the NEF (FBR0007); Q 3 (Dr Bryce Stewart)
118 Written evidence from the Marine Conservation Society (FBR0006)
119 Written evidence from the IEEP (FBR0003)
120 Q 21
121 Written evidence from the Angling Trust FBR0013
122 Written evidence from the NEF FBR0007
123 Q 32
124 Q 35
125 Written evidence from the Angling Trust FBR0013

Devolution

71. The Common Fisheries Policy has provided the legislative framework within which responsibility for fisheries has been devolved within the United Kingdom. In the words of Dr Appleby: "Devolution took place amid the backdrop of EU law providing the binding glue in fisheries law".[126] In his view Brexit raised "the spectre of four different UK fisheries policies within the UK itself", while the IEEP suggested that leaving the EU could necessitate a renegotiation of the devolution settlement regarding fisheries.[127]

72. The Minister recognised that devolution would add complexity to the future of fisheries policy after Brexit. He suggested the Government would need to "work out … how we put in place a UK-wide framework of some sort; what the limits of that framework are; then how we give as much discretion and control as possible to the Devolved Administrations to manage fisheries in a way that works for them". He added that the framework should respect the existing principles of the devolution settlement: "we create the scope in some areas for Administrations to act more expeditiously to deliver changes in things like technical Regulations faster than they might otherwise be able to, but to do so in a way that preserves the UK-wide framework".[128]

73. Nevertheless, the differences between the fishing industries in the devolved nations, in particular the difference between the Scottish fleet and that of the other home nations, led witnesses to suggest that these differences would need to be reflected in the Brexit negotiations and subsequently. Mr Ewing told us that the importance of fisheries to Scotland "demonstrates why the Scottish Government must be involved directly in shaping the UK position as well as with any discussions with other countries".[129] With regard to negotiations with coastal states, he added: "We will rightly demand and expect that we have the lead negotiating role for issues in which Scotland has the majority interest." The Minister acknowledged that the fishing industry was "incredibly important" to Scotland, and suggested that the Government had "always been incredibly inclusive" in Fisheries Council, where Devolved Ministers accompany the UK Minister in the negotiations.[130]

74. The SFF and the NFFO agreed in principle that due weight should be given in any negotiations to the Devolved Administration(s) with a vested interest, in particular focusing on Scotland.[131] Mr Armstrong suggested that:

> "For Brexit, and most especially for the UK acting as a coastal state after Brexit, the size of the [UK EEZ] creates a critical mass that gives you a very powerful negotiating position, which we would wish to retain and not have diluted by any—what you might call arm wrestling north and south".[132]

He added that in future international negotiations, the SFF "would expect the Scots to be consulted" and that a joint UK position should be "formed with that in mind". Mr Deas agreed, though he stressed that it was important "that the UK must take the lead in all international negotiations", because UK Ministers are accountable to Parliament.[133]

126 Written evidence from Dr Thomas Appleby (FBR0012)
127 Written evidence from the IEEP (FBR0003)
128 Q 38
129 Written Evidence from Fergus Ewing MSP (FBR0011)
130 Q 39
131 Q 13
132 Q 12
133 Q 13

75. The Minister recognised that "we have to make sure that we engage very closely with the devolved Administrations and we will, but also the industry in those devolved Administrations".[134] He assured us that the Government was engaging in a "strong dialogue" directly with industries to understand and reflect the differences across the UK.[135]

Resourcing and enforcement

76. Delivering a policy that is tailored to the United Kingdom, the interests of coastal communities and the industry, as well as implementing and enforcing it, will be an immense task for the Government and its agencies. This task is likely to fall to the Department for Environment, Food and Rural Affairs (Defra). Defra has been subject to significant budget cuts in recent years, giving rise to concern that it will not be able to manage this considerable task.[136] UKIP therefore suggested establishing a new "Fisheries Ministry".[137]

77. Marcus Coleman, CEO of Seafish, told us that the "Hundreds of millions in blocks of tranches are made available to the sector, principally through European funding routes", the future of which is uncertain.[138] This funding, Dr Appleby argued, "is very important in the development and maintenance of the fishing sector—particularly the inshore fleet".[139] Mr Deas acknowledged that funding was "important" though he noted "it is not top of the list."[140] The WWF and the IEEP reminded us that control and monitoring were instrumental for implementing policy as well as assessing stocks and evaluating the fishing pressure on commercially-fished species.[141] Given that the UK will have a much larger area of sea under its control post-Brexit, they recommended that the UK should identify what would be required in terms of effective monitoring and enforcement of fishing activities in the UK EEZ, and put in place appropriate provisions to achieve this. We note that control and enforcement are devolved matters, and that the UK already largely controls and monitors its own waters.

78. The Minister told us that Defra was "mapping out the workload … both to design a policy post-Brexit but also to play our part in those crucial negotiations for Brexit itself."[142] If the Department needed additional resources to manage this workload, he would "obviously" make the case within Government. He suggested that "there may also be other areas where we may be able to slim down or streamline work on emerging EU dossiers that are some years off". For such dossiers there was "a moot point about how much resource we throw at that given we will be outside the European Union at that point". Therefore, he argued, resources could be re-prioritised.

79. Yet until the UK withdraws from the EU, it remains a Member State and must participate in the legislative processes that take place. Though some dossiers may not come into force before withdrawal, they may still affect the

134 Q 39
135 Q 38
136 Written evidence from the NEF (FBR0007), Fishing for Leave (FBR0002) and UKIP (FBR0009); Q 1 (Prof Richard Barnes and Dr Bryce Stewart)
137 Written evidence from UKIP (FBR0009)
138 Q 12
139 Written evidence from Dr Thomas Appleby (FBR0012)
140 Q 19
141 Written evidence from WWF (FBR0010) and the IEEP (FBR0003)
142 Q 40

UK because of the transboundary nature of fish stocks. Mr Deas highlighted proposals of importance to the UK:

> "There is a new technical measures regulation and there are multiannual management plans for the North Sea and north-west waters all in train, as well as the annual cycle of TAC setting. We have to keep all these balls in the air while we consider the Brexit aspects."[143]

80. As a model for the way ahead for the UK, the commitment of resources and political will that characterises the Norwegian and Icelandic fisheries management regimes is particularly impressive. We heard that both countries placed great emphasis on controlling activities at sea through their respective Coast Guards, and that significant resources were committed to the task.[144] The SIA highlighted the political will of both countries to develop and invest in their fisheries management policies.[145] We note that this commitment is crucial to developing effective and appropriate fisheries management regimes.

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

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

83. **Until the UK withdraws from the EU, it will remain a Member State. Legislative proposals currently under consideration in the EU may come into force before the UK leaves the EU, or will have an effect on fisheries management in the UK after withdrawal, thanks to the mobility of stocks. The Government must therefore continue to engage with the development of EU proposals until such a time that withdrawal is complete.**

Alignment to the CFP

84. Though the CFP has been much criticised, with UKIP noting that "The UK has nothing to learn from the EU management of fisheries, which has proved so damaging to fishing communities and fish stocks",[146] others argued that, following reform, the policy had delivered sustainable stock management through its commitment to achieving MSY, protection of marine habitats, increasingly regionalised regulations and the reduction of the wasteful

143 Q 21
144 Q 22
145 Written evidence from the SIA (FBR0008)
146 Written evidence from UKIP (FBR0009)

practice of discarding.[147] Therefore, the IEEP told us, the UK should: "aim to 'cherry-pick' and continue to improve, based on British conditions, the policy interventions in the EU that are delivering positive results."[148]

85. Former Director in the Directorate General for Fisheries in the European Commission John Farnell saw alignment to the CFP as the most effective way of facilitating continued regional co-operation and minimising the risk of over-fishing.[149] Similarly, Professor Barnes argued that fisheries management had to "proceed on the basis of co-operation, without which we will have to go back to situations of competitive overfishing." He added: "under international law, there are particular requirements of compatibility between fisheries regulation within Exclusive Economic Zones and on the high seas. While that does not require them to be identical, it does require compatible fisheries regulations."[150] One state could otherwise undermine the effectiveness of a regulatory regime by allowing particular types of gear, for example, which could have adverse impact on stocks and risk politicising management efforts.[151]

86. The IEEP further raised the question of standards: through the CFP a number of standards have been adopted regulating issues such as Illegal, Unreported and Unregulated (IUU) fishing. Compliance with these standards could be a requirement for continued trade with the EU. [152] The WWF agreed.[153]

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

147 Written evidence from the Marine Conservation Society (FBR0006), Dr Thomas Appleby (FBR0012), WWF (FBR0010), the Angling Trust (FBR0013) and the SIA (FBR0008); Q 1 (Prof Richard Barnes) and Q 11 (Dr Bryce Stewart)
148 Written evidence from the IEEP (FBR0003)
149 Written evidence from John Farnell (FBR0005)
150 Q 4
151 Q 1
152 Written evidence from the IEEP (FBR0003)
153 Written evidence from WWF (FBR0010)

CHAPTER 5: A NEW CO-OPERATIVE RELATIONSHIP

Co-operation with the EU and other neighbouring states

88. In withdrawing from the CFP, the UK will withdraw from the structures that facilitate co-operation on fisheries with the EU and other international parties. Though the UK could choose not to replace these structures, the Institute for Environmental Policy (IEEP) cautioned: "Were the UK to set its own catch limits in parallel to the EU or other states fishing the same stocks, the total fishing pressure on individual stocks would be likely to increase."[154]

89. This, the Angling Trust told us, is because: "The UK shares, and always will share, access to fish stocks with other EU and non-EU states." This is "a function of the UK's geographical position in Europe and the fact that migratory fish stocks do not respect national borders".[155] Consequently, Professor Churchill argued, if these shared stocks "are to be properly managed … there will have to be some form of co-operative management regime".[156]

90. Barrie Deas agreed: "The reality is that most of our stocks are shared, so some level of shared management is not only desirable but inevitable."[157] This, Dr Bryce Stewart explained, is because "the [shared] fish are moving around between the different areas and what we do affects other countries and, likewise, what they do affects our fisheries".[158] Professor Barnes developed a similar point:

> "It is incredibly difficult to view the regulation of fisheries in isolation from what other states do … so, when it comes to implementing measures to do with allocating fish quotas or to determine where and when fish are caught … there has to be some degree of co-operation and there have to be concessions to other states' interests within these waters."[159]

91. The Minister also agreed that, for stocks that migrate and are shared, "co-operating with other European countries, whether they are in or out of the European Union will continue to be very important".[160]

The purpose of a framework

92. There was, though, disagreement about what a future relationship with the EU should look like. While the NEF recommended that the UK should pursue continued membership of the CFP, Fishing for Leave were in favour of a "cordial relationship with the EU co-operating on fisheries only when necessary and of mutual benefit".[161]

93. Witnesses highlighted key functions that would be relevant in a new framework agreement with the EU: reaching agreement on TACs; a mechanism for sharing TACs; and exchanging access to fishing in the respective EEZs of

154 Written evidence from the IEEP (FBR0003)
155 Written evidence from the Angling Trust (FBR0013)
156 Q 1
157 Q 14
158 Q 3
159 Q 5
160 Q 35
161 Written evidence from the NEF (FBR0007) and Fishing for Leave (FBR0002)

both parties.[162] Barrie Deas suggested long-term management plans should also feature in a regional or bilateral relationship,[163] a point echoed by the Marine Conservation Society,[164] though Mr Deas argued that decisions about technical measures should be reserved for the UK.[165]

94. The Norwegian and Icelandic witnesses told us that their fisheries agreements with neighbours typically included some aspect of setting and sharing TACs, control and enforcement, and some long-term harmonisation of management efforts.[166] Mr Landmark also said that reciprocal access arrangements were crucial to EU-Norway relations.[167]

95. We recognise that the EU is not the only international partner of interest to the UK for fisheries management. Agreements will be required with Nordic states such as Norway, Iceland and the Faroe Islands, bilaterally or, for important straddling stocks like mackerel, multilaterally through coastal state negotiations and Regional Fisheries Management Organisations (RFMOs).[168] We will address these relationship models in chapter 10.

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

162 Written evidence from the IEEP (FBR0003), WWF (FBR0010), the NEF (FBR0007), Dr Stewart (FBR0015) and the Angling Trust (FBR0013); Q 3 (Prof Robin Churchill)
163 Q 17
164 Written evidence from the Marine Conservation Society (FBR0006)
165 Q 17
166 Q 25 (Sigurgeir Thorgeirsson, Vidar Landmark)
167 Q 25 (Vidar Landmark)
168 Written evidence from the NEF (FBR0007), the IEEP (FBR0003), the Angling Trust (FBR0013) and John Farnell (FBR0005)

CHAPTER 6: TOTAL ALLOWABLE CATCHES AND RELATIVE STABILITY

97. Agreement on the level of exploitation for shared stocks is vital for the long-term sustainability of those fish. Most of our witnesses argued that the UK should continue to set TACs for shared stocks in co-operation with the EU and neighbouring coastal states.[169] Professor Churchill summarised the argument as follows: "it is vital that the TAC for shared stocks is agreed because, if it is not, then we are likely to get overfishing".[170] Those stocks which are not shared, on the other hand, are, in the words of Bertie Armstrong, "not subject to negotiation with anybody other than our own sensible management".[171]

Scientific advice

98. Witnesses unequivocally agreed that fisheries management post-Brexit should continue to be based on scientific advice.[172] Mr Armstrong argued that scientific advice was "an uncrossable line".[173] There was therefore widespread agreement that the UK should continue to fund, and take advice from, the International Council on the Exploration of the Sea (ICES).[174] The Minister thought it "highly unlikely" the UK would abandon fisheries management based on ICES advice.[175] Fergus Ewing MSP told us that the Scottish Government too would "continue to take a science based sustainable approach to maximise the potential of the fishing industry as well as the wider marine environment and the communities it supports".[176]

Political decisions

99. Though the TACs are informed by science, the overall exploitation rate is ultimately a political decision, and for shared stocks, a negotiated one. Ms Curtis explained:

> "Scientists answer a question they have been asked, so it is not some exogenously generated total allowable catch that scientists say there should be. It depends what question you have asked them, such as what fish stock size you want and how risky are you prepared to be. Are you willing to risk the stock going down? I think it is worth reviewing the example a few years ago of the mackerel stock. Mackerel started to come through Iceland a bit more, and Iceland decided to take 100,000 tonnes where it used to take 4,000 tonnes, or some such difference. It decided that it would risk the stock to that extent. That was its political preference. So the total allowable catch is based on scientific advice, one would hope, but it is a political decision."[177]

169 Written evidence from WWF (FBR0010), John Farnell (FBR0005), the Angling Trust (FBR0013), the IEEP (FBR0003) and the Marine Conservation Society (FBR0006); Q 3 (Prof Robin Churchill, Dr Bryce Stewart) and Q 4 (Prof Richard Barnes)
170 Q 3
171 Q 17
172 Q 5 (Prof Richard Barnes, Dr Bryce Stewart) and Q 17 (Bertie Armstrong, Barrie Deas, Hazel Curtis)
173 Q 17
174 Written evidence from the Marine Conservation Society (FBR0006), the SIA (FBR0008), UKIP (FBR0009) and Fishing for Leave (FBR0002); Q 17
175 Q 35
176 Written evidence from Fergus Ewing MSP (FBR0011)
177 Q 17

100. She further explained that in order to reach agreements on the TAC for shared stocks coastal states must agree on their risk appetite for a stock:

> "When you are negotiating, you first have to agree on a fish stock assessment … what the stock size is, how big do we want it, and are we trying to grow it like the cod stock in the North Sea at present or keep it the same size that it is? Then, after you have agreed the sustainable annual harvest for an individual year, what are the international shares, what are the technical measures, and what are the enforcement and control measures that all the countries will accept?" [178]

Box 7: The 'Mackerel Wars'

In 2010 Iceland and the Faroe Islands argued they should receive higher shares of the TAC for mackerel, due to the increased abundance of the stock in their EEZs. The EU and Norway were unwilling to reduce their quotas and as a result, Iceland and the Faroe Islands set unilateral quotas for the shared stock.

Source: House of Commons Library, Icy fishing: UK and Iceland fish stock disputes, SNSC-06511, 19 December 2012

101. The outcome of these political decisions, the NEF argued, has been that countries have set TACs above scientific advice. Their research suggested that the TAC currently held by the UK was on average 17% above scientific advice, and that TACs agreed between the EU and third countries, such as Norway and Iceland, were often higher.[179]

102. We were pleased to hear the Minister confirm that under international law, the UK will be bound by "clear commitments to co-operate with other countries where there are shared fisheries to agree shared TACs", and that the UK would continue to do so with European partners.[180]

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

104. **However the Government approaches fisheries management after Brexit, it must resist the political temptation to set TACs above the scientific recommendations. Ministers should therefore be under an obligation to set and negotiate TACs that are aligned with the scientific advice, and that will deliver the Maximum Sustainable Yield.**

178 Q 17
179 Written evidence from the NEF (FBR0007)
180 Q 35

Dividing the TAC: allocating quotas

105. Even if TACs for shared stocks are agreed, the challenge, according to Prof Churchill, will be "how that [TAC] is divided up between the UK and the EU in the future".[181] Fishing for Leave argued that relative stability[182] was an "EU construct", which would cease to apply upon withdrawal: "There will be nothing to negotiate—all the resources defined in UK waters currently held by other EU member states and allocated under an EU system will automatically return to the UK."[183] The Angling Trust, on the other hand, cautioned that: "Unilateral renegotiation of relative stability by the UK would only result in unsustainable fishing."[184] Mr Farnell concurred.[185]

106. The Minister recognised that, when allocating TACs outside the EU, "it is harder to sometimes reach agreement at all".[186] By way of example, he mentioned the North-East Atlantic Fisheries Commission (NEAFC), where disagreement over the management of mackerel meant that "everybody was unilaterally setting their own TACs because they could not agree an allocation." Consequently, he noted, NEAFC was looking to establish a broad formula that could overcome this difficulty and "calculate the allocations, so you do not go into it as a straightforward haggling match every year".

Contested allocations

107. Industry representatives told us that the current relative stability mechanism was unfair and disadvantaged the UK. Mr Deas told us that there were "gross anomalies in the quota share arrangements", referencing cod in the English Channel as an example. Here, he said, the UK received only 9% of the stock, while France received 84%, despite the fact that most of the catches were made in UK waters.[187] Mr Armstrong concurred, noting that the current system was "a snap-shot in time", which needed updating.[188] The Minister agreed that the UK allocation was not fair: "Particularly in the Channel and the west country, on some species, I think it is generally accepted that historically we have ended up with a disproportionately small share of a stock given that a great deal of it is caught in our waters."[189]

108. The SIA argued that "Declaration of a UK 200 mile EEZ would … fundamentally alter the assumptions on which the current allocation key was based." They added: "It is therefore difficult to see how renegotiation [of relative stability] could be avoided".[190] Dr Stewart and the SIA also pointed out that exogenous effects, such as climate change and temperature fluctuations, had led to changes in the distribution of stocks and their migration patterns, necessitating a revision of the current quota allocations.[191] The NEF agreed: "The failure of relative stability to reflect either the current fishing patterns of EU Member States or the changing biological patterns of fish stocks has long been a complaint of many EU Member States."[192] Witnesses therefore

181 Q 3
182 See Box 3
183 Written Evidence from Fishing for Leave (FBR0002)
184 Written evidence from the Angling Trust (FBR0013)
185 Written evidence from John Farnell (FBR0005)
186 Q 34
187 Q 12
188 Q 17
189 Q 32
190 Written evidence from the SIA (FBR0008)
191 Written evidence from Dr Bryce Stewart (FBR0015) and the SIA (FBR0008)
192 Written evidence from the NEF (FBR0007)

agreed that in exiting the EU, the UK would have an opportunity to assess and renegotiate the proportion of quotas for shared stocks which are allocated to the UK, replacing relative stability with a new allocation mechanism.[193]

109. Though many witnesses agreed the UK should address inequalities in the current quota allocations, several cautioned that such an exercise should reflect the fact that many stocks do not occur exclusively in the UK EEZ.[194] The Marine Conservation Society reminded us that "Fish know nothing of political borders."[195] Dr Stewart, asked whether there was such a thing as British fish, replied: "It is fair to say that the majority of stocks, especially the ones that are regulated by quotas, definitely are shared stocks and that is why we have a need to continue shared management."[196]

110. By way of example, Dr Stewart explained that in the North Sea and English Channel "the majority of spawning and nursery grounds of plaice and sole are outside the UK EEZ (e.g. in French, Belgium and Dutch waters) … Juvenile fish in those areas are too small to contribute to the commercial fishery at that time, but ultimately the wider commercial fishery relies on them." Therefore, he argued: "Those countries are likely to justifiably raise this point during any discussions about quota shares."[197] He also told us that "most of the fish species which are targeted by the fisheries currently managed by the EU are highly mobile and may cross through the waters of several different countries, even during a single year".

111. The perception of unfairness in the proportion of catches made in the UK EEZ allocated to UK fishers gains some support from a recent report by the NAFC Marine Centre at the University of the Highlands and Islands, which was carried out at the request of the Shetland Fishermen's Association (SFA) to determine, so far as is possible using available data, the quantity of fish caught within the UK's EEZ by fishing boats of other EU Member States; and, the quantity of fish caught by UK fishing boats elsewhere in the EU's EEZ. This report estimated that in the period 2012–2014 European Union fishing vessels (including UK vessels) landed, on average, 1.1 million tonnes of fish and shellfish annually that had been caught within what would constitute the UK EEZ.[198] The report found that, on average, fishing vessels from EU countries other than the UK landed 58% of that volume (equal to

193 Written evidence from the SIA (FBR0008), WWF (FBR0010) and the NEF (FBR0007); Q 1 (Dr Bryce Stewart), Q 12 (Barrie Deas) and Q 17 (Bertie Armstrong)

194 Written evidence from the Angling Trust (FBR0013), the Marine Conservation Society (FBR0006), the IEEP (FBR0003), the SIA (FBR0008) and John Farnell (FBR0005)

195 Written evidence from the Marine Conservation Society (FBR0006)

196 Q 2

197 Written evidence from Dr Bryce Stewart (FBR0015)

198 NAFC Marine Centre, *Fish Landings from the United Kingdom's Exclusive Economic Zone, and UK Landings from the European Union's EEZ, (*11 October 2016), p6.The report was based on data from the Marine Management Organisation and the European Commission's Scientific, Technical and Economic Committee for Fisheries. ICES statistical rectangles were classified as being inside or outside of the United Kingdom's or European Union's Exclusive Economic Zones. Where only part of a rectangle lay within an EEZ the proportion of the area of the rectangle that lay within the EEZ was estimated. The weights landed from the UK (or EU) EEZ each year were estimated by summing the weights from all of the statistical rectangles that fell within the EEZ. Where only part of a rectangle lay within an EEZ the proportion of the landings from that rectangle caught within the EEZ was assumed to be equal to the proportion of the area of the rectangle that lay within the EEZ. The values of landings were estimated by applying average values (price per tonne) from landings in the UK in 2014 to the weights estimated.

some £400 million or 43% of the value of all landings from the UK EEZ).[199] In a supplementary report it was estimated that "The fish and shellfish caught in the UK EEZ by non-UK EU fishing boats represented about 15% of the total (global) landings by the EU fishing fleet."[200] Conversely, during the same period UK vessels fishing in non-UK EU waters on average landed 90,000 tonnes, worth £103 million.[201] Defra's best estimate[202] was that in 2014 UK vessels landed 557,000 tonnes of fish caught within the UK EEZ, worth £614 million in revenue, and 144,000 tonnes, worth £155 million, from non-UK EU waters and third countries such as Norway.[203] We note that estimates reported to us by witnesses used varying methodologies and measurements: some reported the value of landings made by UK vessels over 15 metres from non-UK EU waters,[204] while the Minister included third countries in his estimates.[205] Despite these differences, the estimates give support to the notion that EU vessels benefit from the current level of access to fishing in the UK EEZ. They also give an indication of the value of current access arrangements to UK vessels.

112. Dr Stewart, in written evidence, noted: "Landing statistics are just that—they only indicate where fish were landed from, not necessarily where they are at different times and in what abundance, especially at different life history stages."[206]

113. Writing ahead of the referendum, Dr Stewart and Paul G Fernandez, Reader in Fisheries Science at the University of Aberdeen, analysed the UK's quota allocations under relative stability. They found that, of the 73 different fish stocks that live in UK waters and are managed through EU quotas, the UK was allocated 585,211 tonnes, amounting to 30% of the overall quotas.[207] This analysis was quoted to us by Fishing for Leave as evidence that under relative stability the majority of fish stocks in UK waters are allocated to the EU and, they argued, illustrated how much the UK would gain after Brexit.[208] It is beyond the scope of this report to assess what proportion of quotas should rightfully belong to the UK, though we note that, as set out above, the allocation of fish to geographical waters is not as simple as it might at first sight appear.

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199 NAFC Marine Centre, *Fish Landings from the United Kingdom's Exclusive Economic Zone, and UK Landings from the European Union's EEZ* (11 October 2016), p 6: https://www.nafc.uhi.ac.uk/research/statistics/eez-landings/uk_eez_2016–10-11_final.pdf [accessed 5 December 2016]

200 NAFC Marine Centre, *Fish Landings from the United Kingdom's Exclusive Economic Zone: by area, nationality and species* (11 November 2016), p 1 https://www.nafc.uhi.ac.uk/research/statistics/eez-landings/uk_eez_2016–11-11_final.pdf [accessed 5 December 2016]

201 NAFC Marine Centre, *Fish Landings from the United Kingdom's Exclusive Economic Zone, and UK Landings from the European Union's EEZ (*11 October 2016), p 109

202 Defra noted that catches by vessels are reported by sea areas known as ICES rectangles, which are 0.5° of latitude and 1° of longitude. Defra has estimated the amount of landings caught within and outside the UK's EEZ by UK vessels based on the rectangles. This is subject to uncertainty where the EEZs straddle an ICES rectangle. The best estimate is based on the logic that where the EEZ straddles an ICES rectangle, it is assumed that the proportion of catches reported in that ICES rectangle is the same as the proportion of the ICES rectangle within or outside the UK's EEZ.

203 Written evidence from Defra (FBR0001)

204 Written evidence from the NEF (FBR0007) drawing on data from the Marine Management Organisation

205 Q 36

206 Written evidence from Dr Bryce Stewart (FBR0015)

207 Paul G Fernandez, Dr Bryce Stewart, 'Fact Check: is 80% of UK fish given away to the rest of Europe?' *The Conversation* (April 14 2016): https://theconversation.com/fact-check-is-80-of-uk-fish-given-away-to-the-rest-of-europe-39966 [accessed 7 December 2016]; European Commission, *Fishing TACs and quotas 2015*: http://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/poster_tac2015_en.pdf [accessed 7 December 2016]

208 Written evidence for Fishing for Leave (FBR0002)

114. The Minister told us that "the industry have it right in that some of the allocation and share that we have … notably plaice and sole in the Channel, and notably cod and haddock in the Celtic Sea, is incredibly low given the amount of it that is actually caught in our waters". He added that "in the North Sea, it is generally accepted that we have an allocation which would be considered fair", referencing "valuable and important" stocks such as mackerel, cod and haddock. But, he added: "When you look at something like the Celtic Sea, if you looked at what would be otherwise known as our EEZ, the truth is we get a relatively small share of the total allowable catch."[209]

115. He acknowledged that had the UK voted to remain in the EU, the Government would have pushed for a revision of relative stability.[210] It thus seems clear that the Government will seek to renegotiate quota allocations.

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

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

A new allocation mechanism

118. Prof Churchill suggested that the EU might prefer historic catch data as a starting point for a review of quota shares.[211] Mr Deas suggested the allocation should "reflect the catches made within the UK zone".[212] Dr Appleby argued that a new calculation mechanism "would be based around the fecundity of UK waters".[213]

119. Another approach, highlighted by the Angling Trust and Prof Churchill, could be the 'zonal attachment' that is used to determine the allocation of TACs between Norway and the EU.[214] Zonal attachment is based on the spatial distribution of stocks over time and their various life stages.[215] Dr Stewart also argued that an accurate allocation mechanism should take into account where fish were, and in what abundance, at different times and different life stages. This information could be obtained from research survey data.[216]

209 Q 35
210 Q 35
211 Q 3
212 Q 12
213 Written evidence from Dr Thomas Appleby (FBR0012)
214 Written evidence from the Angling Trust (FBR0013); Q 3
215 Suzannah Walmsley, World Bank Group, 'European Union Northern Agreements' in *Trade in fishing services: Emerging Perspectives on Foreign Fishing Arrangements* (1 December 2014), pp 41-42: http://documents.worldbank.org/curated/en/504571468164949623/pdf/92622-REVISED-PUBLIC-Trade-in-Fishing-Services-WEB-withaddendum.pdf [accessed 5 December 2016]
216 Written evidence from Dr Bryce Stewart (FBR0015)

120. The NEF and Dr Stewart argued that the UK could pursue a structure that would ensure the stability of quota share allocations over a number of years, yet would also include a timetable for revisiting the allocations: the NEF suggested five-year cycles, while Dr Stewart proposed a 10-year review.[217] Such an approach would mitigate the risk of negotiating an allocation mechanism that would become another 'snap-shot in time', thereby falling prey ultimately to the same flaws as relative stability. By including regular review cycles, the parties could address perceived inequalities and changes in fish stock distribution iteratively, preserving some degree of stability and avoiding what the Minister called the current "haggle"[218] over allocating shares in coastal state negotiations that do not currently rely on any fixed mechanism.

121. Scientific evidence in this area is, however, scant. The Minister told us that, as part of the preparations for negotiations with the EU, he had commissioned an analysis of the zonal attachment of stocks in the UK EEZ, to determine which quota allocations were fair and which were not. This analysis, he told us, would "help to inform some of these discussions in future".[219]

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

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

217 Written evidence from the NEF (FBR0007) and Dr Bryce Stewart (FBR0015)
218 Q 34
219 Q 36

CHAPTER 7: ACCESS AND NEGOTIATING QUOTAS

Contentious negotiations

124. Any successful negotiation will require the EU, as well as the UK, to be ready to reach agreement, but according to Professor Barnes, experience showed the EU was unwilling to move away from existing practices, because "as soon as you start to unpick and negotiate differentials in one area, it has a knock-on effect in other areas".[220] The SIA concurred, noting it would be "extremely challenging and contentious for all concerned".[221]

125. This difficulty was recognised by the European Commission, which told us in 2008 that "relative stability is a principle that for most Member States has been a sacred principle of the Common Fisheries Policy".[222] The internal dynamics of the EU could be a further complicating factor: while the UK may only have an interest in preserving access to fishing in neighbouring waters, the EU will negotiate as a single coastal state. The result, Mr Farnell argued, could be that Member States that have an interest in fishing in UK waters, but have little to offer by way of reciprocal access, will be vigilant in ensuring the future arrangements with the UK satisfy their interests. The international politics of the EU would, he cautioned, make it "impossible for the UK to negotiate an agreement with the EU that would significantly change the fisheries access of some individual EU Member States but not others".[223]

Access: the great lever

126. Mr Armstrong argued that the UK would be in a strong position to negotiate new allocations of TACs. He argued that "the present arrangements of relative stability … could be revisited by us, and the great lever for the re-visit is access. We could decide who had access once those figures were set." He also said: "the great difference in our negotiating position as a coastal state is that we can have access to French waters, of course, and they can have access to our waters of course, but on our terms".[224]

127. Mr Armstrong also suggested that "Everybody else needs access to us", and consequently the UK had "a fine hand of cards if there is the political backbone to chase this grand prize".[225] Similarly, Fishing for Leave noted that "The UK EEZ includes some of the most productive and prime aquatic real estate in the world with the majority of EU catches being taken from what should, and will be, UK waters." [226] Consequently, they argued, the UK should "close access to our waters for the EU fleet". UKIP agreed.[227]

128. The Minister echoed the 'lever' argument: "EU countries and other European countries benefit considerably more from the access they have to UK waters than we benefit from access to their waters". He argued that this imbalance should be addressed,[228] and remarked: "if we are entering a negotiation, recognising where our strengths lie is an important first principle."[229] As we

220 Q 3
221 Written evidence from the SIA (FBR0008)
222 Oral evidence taken before the European Union Select Committee into the progress of the Common Fisheries Policy, 7 May 2008 (Session 2007–8), Q 591
223 Written evidence from John Farnell (FBR0005)
224 Q 14 and Q17
225 Q 12 and Q 17
226 Written evidence from Fishing for Leave (FBR0002)
227 Written evidence from UKIP (FBR0009)
228 Q 35
229 Q 41

have noted, the UN Convention on the Law of the Sea grants coastal states the exclusive right to govern and exploit the resources within their EEZs. This was acknowledged by the Minister: "the EEZ is the extent of [UK] fishing rights", so that after the UK leaves the EU, the legal baseline will be an "altogether different one".[230] It will thus be for the Government to negotiate with other EU countries the extent to which their vessels will be allowed to fish in UK waters going forward.

129. Many witnesses argued in favour of negotiating some form of reciprocal access arrangements, in order to allow UK vessels to access fishing grounds in EU waters.[231] Mr Deas told us: "We need access, we want access, to Irish waters, to French waters."[232] Access to Norwegian waters was also essential. But, he argued, there should be an exclusive 12 nautical mile zone for UK fishers, outside which "we need some kind of collaborative management on shared stocks".[233]

130. Fishing for Leave, though, did not see a loss of access to fishing in EU waters as a real risk to the UK industry: "although, in the case of a few fisheries and areas, there would be some loss to a small number of the UK fleet, it would mean an adjustment in fishing patterns more than compensated for with the huge volume of fisheries resources repatriated to the UK".[234] The Minister also told us that "the access other countries have to our EEZ and the volume of fish they catch within our EEZ is significant when compared to the corresponding access we have in EU waters".[235]

131. We note that the 'lever' argument is premised on the idea that, by withholding access to fishing in the UK EEZ, the UK can get better quota allocations. As we have noted, the extent to which quotas for shared stocks will increase after Brexit will depend on negotiations with the EU, unless the UK were to set TACs for, and exploit, shared stocks unilaterally. But the Minister himself appeared to rule out unilateral action:

> "When it is said, 'We are going to take back control of our EEZ out to 200 nautical miles or the median line', it sounds perhaps more dramatic than it might be, in that even having established control of our EEZ we would then still engage in international negotiations around mutual access rights, mutual shares and the like."[236]

132. However the Government approaches a renegotiation of allocations and access to fishing grounds, Dr Stewart and the NEF warned that it should do so on the basis of consultation with the industry.[237] Dr Stewart noted that when stocks were portioned in a new way, a significant number of vessels would need to change their fishing practices in response. As a result, he argued, the Government would need to "consult closely with the industry about what their desires really are".[238] The NEF agreed. The evolution of the fishing industry had led to specialisation, both by species and by area,

230 Q 35
231 Written evidence from the Angling Trust (FBR0013), WWF (FBR0010), the NEF (FBR0007) and Dr Thomas Appleby (FBR0012); Q 5 (Dr Bryce Stewart)
232 Q 14
233 Q 12
234 Written evidence from Dr Thomas Appleby (FBR0012)
235 Q 40
236 Q 35
237 Written evidence from the NEF (FBR0007); Q 3 (Dr Bryce Stewart)
238 Q 3

meaning that EU countries fished for different species in each other's EEZs: "From fishing gear to processing plants to national tastes—it would take decades to reverse this process of specialisation and for each nation to start effectively fishing the diversity of species they catch closer to shore."[239] Mr Armstrong noted that "Industries have been built up in other countries—Belgium, France, the Netherlands, Denmark, Spain—that depend on access to [the UK EEZ]". These countries might use "every lever" to preserve their access, but Mr Armstrong argued that this "must be resisted."[240]

133. Finally, there is a question of sequencing. Mr Armstrong's "strongest recommendation" was that the negotiations on new access arrangements should be deferred until after the UK had withdrawn from the EU. He argued that "you do not in the Brexit process organise access for all those who want it … you organise it afterwards". He elaborated: "We could start … with the share of fish being static, but they would have to catch them elsewhere than our waters until such time as an arrangement had been made with us." [241]

134. This would mean that the quota allocations between the UK and other Member States could remain static at first, but that those countries that held quotas for shared stocks occurring in UK waters would have to catch their quotas outside the UK EEZ until an explicit agreement about fishing quotas in the UK EEZ had been made.[242] Though we acknowledge the appeal of this approach, which would minimise the risk of policy linkage between continued access to fishing grounds in the UK EEZ and the wider Brexit negotiations, that linkage may be inescapable in reality, given the interest of EU countries in preserving the current access arrangements.

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

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

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

239 Written evidence from the NEF (FBR0007)
240 Q 14
241 Q 12
242 Q 12

The power of walking away

138. While the CFP obliges Member States to reach agreement on the exploitation rates of given stocks in the Council, bilateral agreements and coastal state negotiations are not institutionalised to the same degree. This gives states the power to walk away from negotiations if they do not agree on the Total Allowable Catch. This, Ms Curtis told us, has happened when states disagreed over the size of a stock and what proportion should fall to them.[243]

139. The SIA noted that, whereas the EU was able to withhold accession as a bargaining tool when the UK joined the (then) EEC and thereby achieve equal access to the UK EEZ, it would have no similar leverage in future:

> "There is not an option of the EU refusing to let the UK leave if agreement cannot be reached. This could be seen as strengthening the UK's negotiating hand, particularly if the default position is a reversion to a 200 mile UK EEZ with no automatic access rights for EU Member States."[244]

But the SIA also warned that "Superficially advantageous as this may be, the reality is that a breakdown in negotiations would carry a high risk of jeopardising good fisheries management—and could lead to major issues of enforcement over new access or catch limits."[245]

140. Mr Landmark told us that even under the auspices of the bilateral framework agreement between the EU and Norway, reaching agreement could be difficult.[246] This was also true for coastal state negotiations. Mr Thorgeirsson told us that in the past, disagreement had arisen over the TAC, and the share that each coastal state would receive, for mackerel in the North East Atlantic. The result, he told us, was that "these stocks have been grossly overfished, according to scientific advice".[247] This, the NEF noted, was not surprising, because negotiations on TACs outside the binding framework of EU law "can, and do, break down … Ultimately it is the stakeholder that does not have a voice during quota negotiations—the fish stocks and future generations—that lose." [248]

141. The Minister acknowledged these risks: "One of the shortcomings sometimes of these looser types of agreements is that, unlike the EU where ultimately it comes down to a vote on QMV if all else fails, it is harder to sometimes reach agreement at all." This could lead to disruption for the industry—he referenced cod disagreements between the EU and Norway, and stalemate over mackerel in coastal state negotiations, which led to several years of unilateral TACs for mackerel.[249]

Policy linkage: trade

142. The power to walk away in fisheries negotiations is undoubtedly a new negotiating tool for the UK, as it approaches Brexit and beyond. But aside from the real risk that this strategy poses for fish stocks, it could also be met with trade retaliations. In the past, the EU has exerted pressure on coastal

243 Q 17
244 Written evidence from the SIA (FBR0008)
245 Written evidence from the SIA (FBR0008)
246 Q 27
247 Q 31
248 Written evidence from the NEF (FBR0007)
249 Q 34

states when those states were seen to act unilaterally with regard to shared stocks. Thus trade restrictions were imposed on the Faroe Islands in 2014, after the two parties failed to agree on shares of the TAC for herring.[250]

143. Mr Farnell told us that in the event the UK were to restrict access to the fishing in the UK EEZ, "the EU would be likely to restrict UK market access".[251] Similarly, the IEEP argued that "the relative stability key is likely to be one of the primary potential areas for trade-offs in the exit negotiations, e.g. against certain aspects of market access".[252] We return to the issue of trade in Chapter 8.

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

250 'EU lifts fish sanctions on Faroe Islands, WTO dispute closed', *International Centre for Trade and Sustainable Development* (27 August 2014): http://www.ictsd.org/bridges-news/biores/news/eu-lifts-fish-sanctions-on-faroe-islands-wto-dispute-closed [accessed 7 December 2016]

251 Written evidence from John Farnell (FBR0005)

252 Written evidence from the IEEP (FBR0003)

CHAPTER 8: FISHERIES AND TRADE

International trade in fish

145. Trade in fish and seafood is a global industry: the UK exports up-to 80% of its catches to other countries, and imports the vast majority of the fish that are processed or consumed within the UK, either from the EU or from countries with whom the EU has agreed preferential trade relations.[253] Though the UK's future trade relationship with the EU is outside the scope of this report, in this chapter we briefly outline the importance of market access to the fisheries sector.[254]

The importance of trade with the EU

146. As Ms Curtis told us, "we export the majority of what we catch in UK vessels and we import the majority of what we eat in the UK".[255] Defra confirmed that, of the 666,000 tonnes of fish the UK produced in 2014, some 499,000 tonnes were exported to EU and non-EU countries, leaving 166,000 tonnes for domestic consumption. This domestic production consists of 451,000 tonnes of fish landed by UK vessels into UK ports,[256] and 215,000 tonnes of fish produced by UK aquaculture producers.[257] Measured by volume, 66% of the exports went to the European Union—equal to 49% of the domestic production of fish that year.[258] At the same time the UK imported some 721,000 tonnes of fish, 32% of which came from the European Union.[259] The vast majority of witnesses therefore agreed that preferential or tariff-free access to the Single Market for fish products was essential.[260]

Table 1: Exports of fish to the EU and non-EU countries by species, 2014

Species	Volume (tonnes)			Value		
	EU	Non-EU	Total	EU	Non-EU	Total
Cod	14,268	1,210	15,478	£49m	£4m	£52m
Herring	45,335	18,127	63,462	£27m	£14m	£41m
Mackerel	66,728	53,615	120,343	£67m	£62m	£128m
Saithe	4,744	3	4,747	£9m	<£0.5m	£9m
Salmon	54,564	70,282	124,846	£268m	£358m	£626m
Sardines	3,079	866	3,945	£4m	£3m	£7m
Other finfish	67,529	17,021	84,549	£190m	£48m	£238m

253 Written evidence from the SIA (FBR0008)

254 We consider the options for the UK's overall trade relationship with the EU after Brexit in European Union Committee, *Brexit: the options for trade* (5th Report, Session 2016–17, HL Paper 72)

255 Q 20

256 Recent data shows that in 2015 UK vessels landed a total of 707,000 tonnes fish into both UK and non-UK ports. Some 291.871 tonnes were landed directly in non-UK ports. The main destinations abroad were Norway (133,733 tonnes), the Netherlands (72,114 tonnes), Denmark (38,578 tonnes) and Ireland (30,633 tonnes). Written evidence from Defra (FBR0001)

257 Written evidence from Defra (FBR0001)

258 Written evidence from Defra (FBR0001); Defra notes that due to the complex nature of international fisheries supply chains these figures should be regarded as indicative.

259 Written evidence from Defra (FBR0001); Defra notes that due to the complex nature of international fisheries supply chains these figures should be regarded as indicative.

260 Written evidence from the IEEP (FBR0003), the NEF (FBR0007), WWF (FBR0010) and the SIA (FBR0008); Q 1 (Dr Bryce Stewart), Q 11 (Prof Robin Churchill) and Q 12 (Barrie Deas)

Crabs	13,450	2,075	15,525	£47m	£10m	£57m
Mussels	4,773	38	4,811	£5m	<£0.5m	£5m
Shrimps and prawns	13,095	372	13,468	£73m	£2m	£75m
Other shellfish	40,103	7,871	47,974	£271m	£51m	£322m
Total	327,668	171,479	499,148	£1,008m	£552m	£1,560m

Source: Written evidence from Defra (FBR0001)

Table 2: Imports of fish from the EU and non-EU countries by species, 2014

Species	Volume (tonnes)			Value (£ million)		
	EU	Non-EU	Total	EU	Non-EU	Total
Cod	23,602	92,800	116,401	£82m	£328m	£410m
Haddock	10,617	25,264	35,882	£24m	£87m	£111m
Mackerel	24,302	7,721	32,022	£46m	£7m	£53m
Salmon	33,418	44,894	78,311	£169m	£224m	£393m
Sardines	4,148	8,758	12,906	£15m	£19m	£34m
Tuna	12,253	79,522	91,775	£51m	£236m	£287m
Other finfish	95,961	138,591	234,552	£303m	£385m	£688m
Mussels	2,695	3,287	5,982	£7m	£9m	£15m
Shrimps and prawns	13,797	68,534	82,331	£94m	£500m	£594m
Other shellfish	10,789	19,653	30,442	£57m	£94m	£151m
Total	231,582	489,022	720,605	£848m	£1,889m	£2,736m

Source: Written evidence from Defra (FBR0001)

147. Trade is important not only for the catching sector. The SIA told us that the UK fish processing industry, which directly employed some 14,305 people and had a turnover of £4.2 billion in 2014, depended on imports from third countries such as Norway, Iceland, USA, Russia and Canada.[261] They noted that for major species like cod, imports were essential because the EU TACs on these stocks could not meet demand: "Even on the most optimistic assumptions about stock recovery or future UK quota shares, there will still be a substantial shortfall in terms of current market needs."[262]

148. The EU operates a triennial system of Autonomous Tariff Quotas, which allow specified quantities of key species to enter the EU at reduced, or sometimes zero, tariffs. SIA told us the UK was a key beneficiary of this system, and that the seafood industry relied on these affordable imports.

261 Written evidence from the SIA (FBR0008)
262 Written evidence from the SIA (FBR0008)

They therefore argued that a "future relationship with the EU must maintain existing market access and our ability to import zero or reduced tariff supplies from both EU and non-EU countries".[263]

149. Mr Landmark told us that Norwegian salmon producers faced substantial tariffs in the EU.[264] This could be particularly problematic for Scottish aquaculture: Mr Ewing noted that the Single Market and trade unimpeded by regulatory barriers was crucial to aquaculture producers.[265]

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

A future trading relationship with the EU

151. As an EU Member State, the UK exports and imports fish and seafood products tariff free within the Single Market.[266] Upon withdrawal the trading relations will change. The Government stated, in the run-up to the referendum, that trade in fish and seafood products is usually excluded from free trade agreements.[267]

152. Defra suggested that the UK could negotiate a trade deal with the EU, which would grant preferential or tariff-free trade terms on exports of fish to the EU, while still complying with WTO rules. If such a deal were not completed, the UK would be subject to the EU's Most Favoured Nation tariff lines, which under WTO rules apply to all countries that do not have preferential trade agreements with the EU. These tariffs on fish products range from 0% for some fresh products to 25% for highly processed products. For the top five fish products exported from the UK to the EU, the tariff lines for non-preferential trade ranged from 2% on Atlantic salmon to 20% on frozen mackerel in 2014.[268] Equally, the EU would face tariffs on exporting to the UK at a level agreed between the UK and the WTO. Defra argued that "such an arrangement is unlikely to be attractive to the EU".

153. Norwegian and Icelandic witnesses told us that their countries, which are both members of the European Economic Area, and thus for most purposes part of the Single Market, were nevertheless subject to tariffs on certain fish and fish products. Mr Landmark told us that while the EEA agreement allowed Norway to export white fish products tariff-free,[269] import quotas and tariffs ranging from 2–25% were applied to other valuable species.[270] He added that, despite the preferential EEA-relations with the EU, "both the tariffs and the export quotas to the EU market on those products are still a serious obstacle to trade".[271]

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263 Written evidence from the SIA (FBR0008)
264 Q 29
265 Written evidence from Fergus Ewing MSP (FBR0011)
266 This includes catches landed directly into other EU ports.
267 HM Government, *Alternatives to membership: possible models for the United Kingdom outside the European Union*, (March 2016), p 6: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504604/Alternatives_to_membership_-_possible_models_for_the_UK_outside_the_EU.pdf [accessed 7 December 2016]
268 Written evidence from Defra (FBR0001)
269 Q 29; This includes cod, haddock and saithe.
270 Q 29; This includes salmon, herring, mackerel, shrimp, Norway lobster and scallops.
271 The NEF estimated Norway pays tariffs on as much as 70% of its fish exports to the EU. Written evidence from the NEF (FBR0007)

154. Similarly, Mr Thorgeirsson told us that trade in fish between Iceland and the EU was partly regulated through the EEA agreement and a free trade agreement. This meant that while some fish were exported to the EU tariff-free, the majority was subject to 2–5% tariffs. A few species, such as herring and whole mackerel, were subject to 18–20% tariffs.[272]

155. Defra told us that "The tariffs the EU would implement on UK fish exports would depend on whether and what kind of bilateral trade deal the UK agrees with the EU after leaving the EU."[273] The Department suggested that a trade deal could include preferential or tariff-free trade terms on fish exports to the EU, though this would of course be a matter for negotiations.

156. Mr Armstrong, in contrast, told us the SFF was "less nervous about market access than some". He continued: "Markets are markets and people have things to sell that other people want."[274] This view was shared by Fishing for Leave: "If there is such a high level of exports then prime British seafood is obviously in demand and that demand from the consumers will remain whether we are signed up to a political project or not."[275]

Complying with standards

157. As we noted in chapter 4, catches made by EU vessels must adhere to certain standards in order to sell into the EU market. The WWF told us that such standards provided consumer assurances about the quality and integrity of UK fish, and should continue to do so after Brexit.[276] Compliance with import standards is also essential for vessels that land their catches directly into EU ports, though the continuation of this practice will be subject to negotiation with the EU.[277]

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

International markets

159. Fishing for Leave challenged the "apocalyptic assumption" that if the EU imposed unfavourable trading terms for fish and seafood from the UK, the domestic fishing industry would necessarily suffer. Instead, they argued that domestic supplies could "diversify into the hungry global markets as others already do or be channelled into domestic demand".[278]

160. The NEF and the SIA disagreed, arguing that, despite numerous campaigns in the UK, consumers had not been willing to change their taste to match the catches made by the UK fleet.[279] This meant that it would be difficult to substitute domestic demand for exports to the EU. The NEF added that even if such a change did happen, it would impose significant costs on the existing supply chains.[280]

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272 Q 29
273 Written evidence from Defra (FBR0001)
274 Q 12
275 Written evidence from Fishing for Leave (FBR0002)
276 Written evidence from WWF (FBR0010)
277 Written evidence from Defra (FBR0001)
278 Written evidence from Fishing for Leave (FBR0002)
279 Written evidence from the NEF (FBR0007) and the SIA (FBR0008)
280 Written evidence from the NEF (FBR0007)

161. As for third countries, the total volume of fish exported to non-EU countries in 2014 was some 171,479 tonnes.[281] Such trade is often subject to tariffs and special arrangements, which complicate trade negotiations.[282]

162. The EU has negotiated free trade agreements with four of the 15 largest non-EU export countries for UK fish, South Korea, Switzerland, Ukraine and Norway. Such exports are subject to preferential import terms in South Korea and Ukraine, while Defra told us that Norway offered tariff-free access for imports of fish products from all WTO members. Switzerland applies the same tariffs for imports of fisheries products from all WTO and EU members, though for many products this is set at zero. Once the UK withdraws from the EU, however, it will cease to be party to free trade agreements negotiated by the EU with third countries.[283]

163. The Minister told us that his department was assessing what access the UK should seek for agricultural and fisheries products to the EU market, as well as considering potential third markets.[284] He noted that the UK traded fish products globally with countries such as China and Nigeria, as well as with the EU. The evidence submitted by Defra shows that the EU is the most important export market for fish products, but that non-EU countries such as Norway, Iceland, the Faroe Islands and China supply the vast majority of imports into the UK.

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

Policy linkage

165. Throughout this short inquiry, we were reminded that fisheries was only one of many policy areas that will be part of the Brexit negotiations and post-Brexit settlement with the EU, and that both sides to the negotiation could seek to link achievements in one policy area to concessions in others.[285] Mr Armstrong told us: "The whole market issue will be decided at the macro-level, and I think we delude ourselves if we think that fishing will necessarily shape any part of that debate."[286]

166. Even within the fisheries sector, there will, as we have already noted, be trade-offs. Fishing for Leave, for instance, argued that market access should not be prioritized above the negotiations of a new, improved settlement on access and quota shares.[287] Professor Churchill made a similar linkage:

> "The UK needs to think carefully about trying to maintain tariff-free access for fishery exports to the EU and not be surprised if the EU then tries to bargain increased access to UK waters for that, which is what happened with Norway in the past."[288]

281 Written evidence from DEFRA (FBR0001)
282 Luis Gonzalez Garcia, 'Brexit: challenges for the UK in negotiating an FTA with the EU', *Matrix Chambers* (2 August 2016): https://www.matrixlaw.co.uk/resource/brexit-challenges-uk-negotiating-fta-eu-trade-negotiators-perspective-luis-gonzalez-garcia/ [accessed 7 December 2016]
283 Written evidence from Defra (FBR0001)
284 Q 40
285 Written evidence from the NEF (FBR0007) and John Farnell (FBR0005); Q 1 (Dr Bryce Stewart) and Q 15 (Barrie Deas)
286 Q 15
287 Written evidence from Fishing for Leave (FBR0002)
288 Q 11

167. Mr Deas also told us that the negotiation of different access arrangements and the renegotiation of quota shares was likely to be balanced against achieving tariff-free access to the Single Market for fish products. This, he said, was "the raw reality: that we will have to find some sort of balance there".[289]

168. Mr Landmark told us that trade and fisheries negotiations had been considered separate issues by the Norwegian government since the EEA agreement was made. But even in this case, we heard suggestions that both Norway and Greenland had been faced with requests for increased access to fishing opportunities in their EEZs in exchange for preferable or tariff-free access for fish exports.[290]

169. We also note the evidence of Mr Luis Gonzáles García, trade negotiator and Associate Member of Matrix Chambers, to the EU External Affairs and Internal Market Sub-Committees, that, from a technical trade negotiation point of view, it would be "a challenge" to negotiate a Free Trade Agreement between the UK and the EU that included market access for fish products and fishing opportunities.[291]

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

289 Q 15
290 Written evidence from the NEF (FBR0007); Q 11 (Prof Robin Churchill)
291 Oral evidence taken before a joint session of the EU Internal Market and External Affairs Sub-Committees, 8 September 2016 (Session 2016–17), Q 12

CHAPTER 9: THE WIDER BREXIT NEGOTIATIONS

171. As the EU Select Committee has noted, the formal negotiations under Article 50 TEU will focus on reaching a withdrawal agreement, in the process resolving such issues as budget contributions and the rights of UK and EU nationals, while taking into account the "framework" for the future relationship between the UK and the EU. The potential scope of this framework is not defined, but it could in principle be wide-ranging.[292] This suggests that disentangling fisheries policy from the EU, insofar as it features in the Article 50 negotiations, will be only one of many complex issues being discussed by the UK and the EU.

172. Though the referendum campaign has raised the profile of fisheries,[293] and despite the potential for negotiating new quota allocations for shared stocks and restricting the access that foreign vessels enjoy to fishing in the UK EEZ, we heard concern that the potential benefits to the sector would not be realised. Mr Armstrong told us that the industry was "scared stiff" of being neglected or given up as a bargaining chip in the wider Brexit negotiations.[294] The Angling Trust agreed: "There is very real concern that fisheries will be used as a pawn in negotiations with the EU and will be used to satisfy successful negotiations in other, more important, policy areas."[295] The Minister, however, gave some assurances when he told us that "we recognise the importance of this industry and are working across government to ensure that is recognised as part of the negotiations".[296]

173. As we have already noted, industry representatives told us that the option of withholding access to the UK EEZ would be a powerful lever in future negotiations over quota shares.[297] Yet such leverage may have to be balanced against other policy areas, particularly trade, where the UK may be more vulnerable. Dr Appleby outlined the concern: "It is difficult to foresee a situation where the French, Dutch and Spanish sit back and blithely accept the UK removing foreign vessels from UK waters without punishing the UK elsewhere in the mammoth Brexit negotiations."[298]

174. The Minister acknowledged the sensitivity of the wider negotiations:

> "Do you … kick the table over and upset everyone? Probably not. I think our European partners have a right to expect us to behave in an honourable and constructive way with them in subsequent negotiations … and we will behave, as we do as a country, in an honourable and constructive way towards agreement." [299]

The Minister added that he expected the EU to engage with the UK on the same terms. We welcome this balanced approach.

292 See European Union Committee, *Brexit: parliamentary scrutiny* (4th Report, Session 2016–17, HL Paper 50), Chapter 5
293 Written evidence from the NEF (FBR0007); Q 1 (Dr Bryce Stewart)
294 Q 12
295 Written evidence from the Angling Trust (FBR0013)
296 Q 38
297 Written evidence from Fishing for Leave (FBR00002); Q 12 (Bertie Armstrong)
298 Written evidence from Dr Thomas Appleby (FBR0012)
299 Q 38

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

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

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

CHAPTER 10: RELATIONSHIP MODELS

'Horses for courses'

178. In replacing the co-operative structures that are contained in the CFP, the UK will be faced with a variety of relationship models. Mr Deas recommended adopting "horses for courses", and highlighted coastal state agreements for migratory stocks and bilateral relations in the Irish Sea, Celtic Sea and the Channel as examples of areas that should be managed through bilateral agreements.[300] In this chapter, we highlight some of the relationships that the Government, as the Minister told us, "is looking at".[301]

Bilateral approach

The Norway agreement

179. The bilateral Framework Agreement between Norway and the EU allows for the setting of TACs for shared stocks, transfers of fishing opportunities and access arrangements, joint technical measures and co-operation on control and enforcement.[302] It is, according to the European Commission, the "single most important agreement" the EU has with a third party, in terms of exchange of fishing opportunities and joint management.[303]

180. The Framework Agreement is extended for periods of six years, though consultations are held each year to determine TACs, exchange quotas and grant reciprocal access. TACs for jointly managed shared stocks are based on scientific advice about stock health and sustainable exploitation rates from ICES. Once agreed, the TACs are divided into quotas between the parties according to 'zonal attachment', that is to say a fixed percentage based on the spatial distribution of the stock over time and its life cycles.[304]

181. Mr Landmark told us that "an integrated part of the bilateral yearly agreement" between Norway and the EU consisted of "setting quotas and agreeing how much of the Norwegian quota can be fished in EU waters and how much of the EU quota can be fished in Norwegian waters."[305] This enables the two parties to increase the fishing opportunities for stocks of particular interest to their respective industries. For example, the EU quota of the TAC for cod in the North Sea includes the Norwegian zone, where EU vessels can only fish if they have express consent from Norway.[306] Mr Landmark told us the emphasis was on establishing "a good fishing pattern".[307] This meant assessing where shared stocks were spawning and then ensuring that if this happened in EU waters, say, then "both Norwegian and EU vessels should fish in Norwegian waters where the fish are bigger".

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300 Q 18
301 Q 34
302 Agreement on Fisheries between the European Economic Community and the Kingdom of Norway, 29 August 1980, OJ L 226/48; Council Regulation (EEC) on the conclusion of the Agreement on fisheries between the European Economic Community and the kingdom of Norway, 27 June 1980, OJ L 226/47
303 European Commission, 'Norway: Northern Agreement': https://ec.europa.eu/fisheries/cfp/international/agreements/norway_en [accessed 7 December 2016]
304 World Bank Group, *Trade in fishing services: Emerging Perspectives on Foreign Fishing Arrangements* (1 December 2014), p 101: http://documents.worldbank.org/curated/en/504571468164949623/pdf/92622-REVISED-PUBLIC-Trade-in-Fishing-Services-WEB-withaddendum.pdf
305 Q 28
306 World Bank Group, *Trade in fishing services: Emerging Perspectives on Foreign Fishing Arrangements* (1 December 2014)
307 Q 28

182. Quotas are exchanged on the basis of 'cod equivalents'.[308] These are measured by weight, and indicate the relative value of different species compared to cod. Though the mix and amount of stocks exchanged each year varies, the use of cod equivalents maintains a balanced exchange. This system has not been updated since the 1980s, but we note that disagreements have sometimes arisen over the quota exchanges, leading to access arrangements being suspended for a period of months. This, the Minister told us, "is quite disruptive for the industry".[309]

183. The Norway model was highlighted by industry representatives as an appropriate model for fisheries relations. Mr Deas told us that a trilateral agreement with Norway and the EU would be the best way to manage demersal stocks in the North Sea.[310] Mr Armstrong agreed: "The fact that the EU-Norway model exists where shared stocks are discussed and arrangements are made means that that model is suitable for an EU-UK-Norway model."[311]

Regional basins

184. Norway and the EU have negotiated three agreements: a bilateral Framework Agreement between the Norway and the EU, a trilateral agreement between Norway, Denmark and Sweden (the latter two represented by the EU), and a neighbourhood agreement covering Swedish fishing in the Norwegian North Sea.[312]

185. The trilateral Agreement that Norway has negotiated with Denmark and Sweden (represented by the EU) with respect to fishing in Kattegat and Skagerrak is of particular interest.[313] This Agreement replicates a historical regional relationship between Norway, Denmark and Sweden, and attempts to ensure flexible though effective management of border-crossing fishing in the area.[314] Such a model could potentially be used to manage regional and historically closely linked regional basins, such as the Irish Sea—where former Taoiseach John Bruton, giving evidence to the EU Select Committee, foresaw a difficult negotiation about the demarcation of fishing rights.[315] We note, however, that the Agreement took several years to negotiate, thanks to disagreements over control and catch registrations between Norway and the EU, representing Denmark and Sweden.[316]

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

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308 World Bank Group, *Trade in fishing services: Emerging Perspectives on Foreign Fishing Arrangements* (1 December 2014)
309 Q 34
310 Q 18
311 Q 18
312 European Commission, 'Norway: Northern Agreement': https://ec.europa.eu/fisheries/cfp/international/agreements/norway_en [accessed 7 December 2016]
313 European Commission, 'Norway: Northern Agreement': https://ec.europa.eu/fisheries/cfp/international/agreements/norway_en [accessed 7 December 2016]
314 Q 26 (Vidar Landmark)
315 Oral evidence taken before the European Union Select Committee, 25 October 2016, (Session 2016–17), Q 131
316 Q 26 (Geir Ervik)

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

Replacing the Northern Agreements

188. The EU has negotiated so-called 'Northern Agreements' with Nordic countries, particularly Norway. These agreements are the current basis for co-operation on stocks that are shared between the EU and Norway, Iceland and the Faroe Islands, bilaterally or through the North-East Atlantic Fisheries Commission[317], and for exchanging quotas and access arrangements.[318] Once the UK withdraws from the EU, it will no longer be party to these Northern Agreements.[319] In its Balance of Competence report, the Government concluded the UK was a net beneficiary of the EU-Norway agreement, and there is general agreement that access to fishing in Norwegian waters is important to the UK industry.[320]

189. Industry representatives suggested that a bilateral relationship with Norway, or a trilateral UK-EU-Norway relationship, would be crucial. Fishing for Leave also highlighted Norway, Iceland and the Faroe Islands as important partners in the North-East Atlantic.[321]

190. Mr Landmark told us that Norway was considering a future bilateral relationship between Norway and the UK, drawing on the current EU-Norway arrangements as well as the Norway-Russia relationship for managing shared stocks. This example would perhaps be a more suitable comparison, we were told, because it was a co-operation between two states rather than a state and the EU, consisting of "many interested fishing states with very varying interests in the total agreement".[322] The Norway-Russia agreement includes co-operation between technical committees and enforcement agencies, which, Mr Landmark told us, function effectively.

191. **As a result of its EU withdrawal the UK will no longer be party to the Northern Agreements. New bilateral, trilateral or coastal state agreements with countries such as Norway, Iceland and the Faroe Islands will be necessary, if the UK is to continue to play a part in co-ordinated management of shared and straddling stocks in the North Sea and the North-East Atlantic. The Government should therefore pursue new, or interim, agreements as a matter of urgency, building on existing models where possible.**

Advisory Councils

192. Though some witnesses, notably UKIP, argued the UK should not spend its resources on influencing EU policy, Mr Landmark suggested that the internal regionalised processes in the European Union minimised the room for compromise between the EU and other parties about stock management. Norway was therefore looking for ways to influence the increasingly regionalised decision-making processes in the EU, though a solution had yet to be found. He concluded that this was "a real obstacle to co-operation".[323]

317 See paras 195-199
318 European Commission, 'Bilateral agreement with countries outside the EU': https://ec.europa.eu/fisheries/cfp/international/agreements_en [accessed 7 December 2016]
319 Q 10 (Prof Richard Barnes)
320 Written evidence from Fishing for Leave (FBR0002) and UKIP (FBR0009); Q 14 (Bertie Armstrong) and Q 16 (Barrie Deas)
321 Written evidence from Fishing for Leave (FBR0002) and UKIP (FBR0009)
322 Q 25 (Vidar Landmark)
323 Q 31

193. The Angling Trust argued that the Government should seek to preserve influence in EU fisheries management.[324] The Trust argued that the UK should pursue a new approach to the EU's Advisory Councils (ACs), including negotiating to become an observer in the North Sea, North Western Waters and Pelagic Advisory Councils,[325] while the NEF suggested establishing "super-ACs", which would include all countries in a region, regardless of EU membership.[326] Continued influence and participation in the ACs, the Angling Trust suggested, could be an avenue for the UK to influence the EU's approach to fisheries management outside the CFP.[327]

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

Regional Fisheries Management Organisations (RFMOs)

195. Regional Fisheries Management Organisations (RFMOs) play an important role in managing straddling and migratory stocks. Professor Churchill told us that, in practical terms, the obligations to co-operate on the management of shared and straddling stocks were given effect through the North-East Atlantic Fisheries Commission (NEAFC),[328] and witnesses unequivocally agreed that the Government should ensure the continuation of the UK's membership of NEAFC and other RFMOs after Brexit.[329]

196. The WWF told us: "As an independent nation there could be scope for the UK to play a greater influencing role in regional management organisations such as the Northeast Atlantic Fisheries Commission."[330] Fishing for Leave said that the UK, Norway, Faroe Islands, Iceland and Greenland "effectively control the whole North East Atlantic", arguing that together these countries could "construct sustainable, environmentally and economically fit for purpose fisheries regimes".[331] Regional co-operation for some important, migratory stocks, such as mackerel, could thus take place through NEAFC.

197. The Minister concurred. He saw an independent seat at the negotiating table in the North East Atlantic Fisheries Commission as a particularly significant opportunity, given the importance of species such as mackerel to the UK.[332]

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324 Written evidence from the Angling Trust (FBR0013)
325 Written evidence from WWF (FBR0010)
326 Written evidence from the NEF (FBR0007)
327 Written evidence from the Angling Trust (FBR0013)
328 The contracting parties to NEAFC are Denmark, in respect of the Faroe Islands and Iceland, the European Union, Iceland, Norway and the Russian Federation.
329 Written evidence from the SIA (FBR0008), the NEF (FBR0007), Fishing for Leave (FBR0002) and WWF (FBR0010); Q 1 (Dr Bryce Stewart) and Q 2 (Prof Robin Churchill)
330 Written evidence from WWF (FBR0010)
331 Written evidence from Fishing for Leave (FBR0002)
332 Q 32

Box 8: Regional Fisheries Management Organisations

Regional Fisheries and Marine Organisations (RFMOs) are international organisations formed by countries with fishing interests in an area or certain migratory species. Some RFMOs manage all fish stocks found in a specific area while others focus on particular highly migratory species. In some RFMOs coastal states negotiate the TAC for stocks and their respective TAC shares.

Source: European Commission, 'Regional fisheries management organisations (RFMOs)': https://ec.europa.eu/fisheries/cfp/international/rfmo_en [accessed 7 December 2016]

198. The UK is currently a member of the NEAFC by virtue of its EU membership, but will have to apply to become a member in its own right.[333] This, Professor Barnes suggested, would not be problematic legally, but, he added, "What would be more difficult would be the extent to which we would be able to enjoy particular shares of quota thereunder."[334] Currently, the UK makes up part of the EU share of the TAC agreed for stocks that are managed through coastal state negotiations in NEAFC and other RFMOs.[335] The IEEP noted that fishing opportunities for new members of NEAFC were often limited, because existing members wanted to maintain their quota of managed stocks. The UK could, though, potentially request an allocation of a part of a quota as a previously co-operating non-contracting party.[336] How the TACs will be shared once the UK becomes an independent member will thus be a matter for negotiation.

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

333 Q 3 (Prof Robin Churchill)
334 Q 10
335 The agreed record between the EU, the Faroe Islands and Norway for managing mackerel in the North East Atlantic from 2014–2018 for instance grants the EU around 50% of the TAC.
336 Written Evidence from the IEEP (FBR0003)

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

A new legal baseline

1. As an independent coastal state under the UN Convention on the Law of the Sea, the United Kingdom will be required to manage the living resources and fishing activities within its Exclusive Economic Zone in a sustainable way. Consequently it will be for the UK Government, and the Devolved Administrations, to develop and implement a domestic fisheries policy after withdrawal from the EU. (Paragraph 33)

2. The UK will also be required to co-operate with adjacent coastal states to manage those stocks which are shared with neighbours as well as straddling stocks to minimise the risk of over-fishing. (Paragraph 34)

3. In declaring an Exclusive Economic Zone independent from EU waters, the UK would be able to control the access that foreign vessels have to fishing in UK waters. It will be for the Government of the day to decide whether the principle of equal access should be preserved, and the extent to which foreign vessels should be granted access to fishing in the UK EEZ. (Paragraph 45)

4. The UK could choose to exclude foreign vessels that have gained access to fishing in UK waters through the Common Fisheries Policy, including those that claim historic access rights. To do this it would need to use the full Total Allowable Catches in its Exclusive Economic Zone, while bearing in mind the obligation under international law to co-ordinate with neighbouring states. In making this decision the Government would have to take into account any impact such a change could have on relations with neighbouring states that currently have access to fishing in the UK EEZ. (Paragraph 46)

5. The practice of quota-hopping is possible because of EU Freedom of Establishment rules, rather than as a consequence of the Common Fisheries Policy. Whether the practice is maintained post-Brexit is likely to be determined in the course of the negotiations on withdrawal. In the meantime, the Government could consider whether a strengthening of the 'economic link' could enhance the benefits derived from UK quotas for UK communities. (Paragraph 50)

A domestic policy fit for purpose

6. The Great Repeal Bill proposed by the Prime Minister seems to reflect the option set out by the Minister, George Eustice MP, of repatriating all EU law and refining it over time, and does not preclude a review of current measures and their suitability for the UK. The Government must prevent a legislative deficit. (Paragraph 54)

7. Withdrawal from the Common Fisheries Policy is an opportunity for the UK to review fisheries management practices and develop a management regime that is tailored to the United Kingdom. It is an opportunity for the UK to address concerns regarding the current fisheries management regime and to reflect the needs and interests of coastal communities, the wider marine environment and the industry. (Paragraph 67)

8. Developing an effective and sustainable policy that is appropriate for UK waters and that respects the devolution settlement will require a process based on consultation and evidence. Implementing and enforcing such a policy will require substantial resources and political will. The Government must also decide whether to replace EU structural funding to the industry and coastal communities following Brexit. (Paragraph 81)

9. The devolution of fisheries management means that Brexit could lead to four different fisheries management regimes within the UK. It is vital that the UK Government develops a unified negotiating position that represents the interests of the Devolved Administrations and industries prior to engaging in international fisheries negotiations, both in the context of Brexit and beyond. (Paragraph 82)

10. Until the UK withdraws from the EU, it will remain a Member State. Legislative proposals currently under consideration in the EU may come into force before the UK leaves the EU, or will have an effect on fisheries management in the UK after withdrawal, thanks to the mobility of stocks. The Government must therefore continue to engage with the development of EU proposals until such a time that withdrawal is complete. (Paragraph 83)

11. A new fisheries management regime within the UK will only be effective if there is a degree of alignment to, and co-operation with, neighbouring states. Such regional co-operation will necessitate co-ordinated objectives and similar management practices, without which the sustainability of shared stocks may be undermined. The UK should not discard the positive elements of the CFP that successive Governments have worked hard to achieve, such as sustainability and regional co-operation. (Paragraph 87)

A new co-operative relationship

12. The geographical proximity of the United Kingdom to the European Union and Nordic states such as Norway, Iceland and the Faroe Islands, the mobility of many fish stocks, the international law obligation to co-operate with adjacent states to manage such stocks, and the risk of over-exploitation, all necessitate an effective and immediate co-operative relationship in fisheries management with the EU and other neighbouring states. (Paragraph 96)

Total Allowable Catches and relative stability

13. Scientific advice is crucial to reaching agreement on the exploitation rates for shared stocks, and we welcome the Minister's assurance that the Government will continue to adopt a science-based approach. But Total Allowable Catches are ultimately political decisions, albeit informed by scientific advice, and replacing the current structures for negotiating TACs for shared stocks will be critical in order to deliver the UK and the EU's commitments to fishing sustainably. (Paragraph 103)

14. However the Government approaches fisheries management after Brexit, it must resist the political temptation to set TACs above the scientific recommendations. Ministers should therefore be under an obligation to set and negotiate TACs that are aligned with the scientific advice, and that will deliver the Maximum Sustainable Yield. (Paragraph 104)

15. The extent to which Brexit will lead to higher quotas for UK fishers of stocks that are shared with other countries will be a matter for negotiations with the EU and neighbouring states. In withdrawing from the EU the Government could negotiate a new allocation of quotas for shared stocks to address the inequalities described by witnesses in current distributions and address the changed distribution of stocks. (Paragraph 116)

16. Landing data offer support to the argument that the UK receives a disproportionately small quota of stocks that are caught in the UK EEZ. But many stocks spend part of their lives in the EEZs of other countries and cannot be regarded as only 'UK fish'. Failure to recognise that shared stocks require shared management could lead to overfishing and over-exploitation of these stocks. It will be crucial to seek science-based agreement on how such stocks are shared to ensure their long-term sustainable exploitation. (Paragraph 117)

17. Scientific assessment of the time that stocks spend in a given EEZ, and at which point in their lifecycle, could provide a robust basis for negotiating a quota allocation that accurately reflects the proportion of shared stocks belonging to the UK and to other states. We therefore welcome the zonal attachment assessment commissioned by the Minister, which could inform negotiations with the EU over a new allocation mechanism for quota shares after Brexit. (Paragraph 122)

18. Any new allocation mechanism for TAC shares could include a timetable for regular review, taking account of industry preferences, fish stock distributions and catch patterns. This approach would provide short-term stability, and facilitate agreement between the parties, while reducing the risk of distortion over time. (Paragraph 123)

Access and negotiating quotas

19. Catch statistics suggest that EU vessels have a clear interest in preserving access to the UK EEZ, and give support to the Minister's view that there is an imbalance between the benefits derived by EU vessels fishing in the UK EEZ and those derived by UK vessels fishing in the EU. (Paragraph 135)

20. Unilateral restriction on access to fishing in the UK EEZ would almost certainly lead to reciprocal restrictions being placed on UK vessels fishing in the EU EEZ. This would also have a profound effect both on the fishing industry in the EU and on the UK fleet that relies on fishing outside the UK EEZ. Some form of mutual access arrangements must therefore be negotiated. (Paragraph 136)

21. The historic reluctance of Member States to renegotiate the relative stability key suggests that negotiating new quota allocations after Brexit will be difficult. Such difficulty will be accentuated if these negotiations overlap with the wider negotiations on EU withdrawal. The Government could use access to fishing within the UK EEZ as a lever for achieving a better allocation of quotas, but must also bear in mind that co-operation will be crucial for the long-term sustainability of stocks. (Paragraph 137)

22. As an independent coastal state the UK will in principle be able to 'walk away' from negotiations with other coastal states if the compromises reached on TACs or quota shares are not aligned to UK interests. Walking away would, by leading to unilateral management of shared stocks, risk undermining the sustainability of fish stocks. It would also invite retaliation in other areas, including trade. Consequently, walking away should be a last resort. (Paragraph 144)

Fisheries and trade

23. Trade in fish and seafood is essential to the wider seafood industry, which relies heavily on importing raw goods at reduced or zero tariffs for domestic consumption, and on exporting domestic catches and production. Any disruptions to the current trading patterns could have profound effects on both the catching and processing sectors. (Paragraph 150)

24. Trade with the EU in fish products will be a key factor to the future success of the UK fishing industry and fish processors. We therefore urge that the fish sector should be included in the Government's consideration of priorities for a future trading relationship with the EU. (Paragraph 158)

25. Depending on the future trade relationship with the EU, the UK may be able to negotiate new preferential trading relations with non-EU countries, though such negotiations are likely to be complicated and time-consuming. It is uncertain whether new markets would be able to replace or compensate for current exports to the EU. (Paragraph 164)

26. There is a likelihood that the Government may come under pressure to balance the negotiations over a future fisheries relationship, including quota shares and access arrangements, against the negotiations over trade in fish products with the EU. (Paragraph 170)

The wider Brexit negotiations

27. The vote to leave the European Union, and with it the Common Fisheries Policy, has raised expectations for the future of fisheries policy that may be hard to deliver. In withdrawing from the EU, the UK will be able to develop a domestic fisheries policy and control fishing activity within its EEZ. However, the majority of commercial fish stocks in UK waters are shared with other states, rendering continued co-operation with the EU and other neighbouring states crucial to the sustainability of those stocks. (Paragraph 175)

28. The fishing industry contributes a small proportion of the UK GDP compared to other sections of the UK economy, but has significant social, cultural and economic value for coastal communities across the United Kingdom. Therefore it must not be marginalised in the wider Brexit negotiations. (Paragraph 176)

29. The UK will be able to negotiate new quota shares and to withhold access to fishing in UK waters as a bargaining tool for achieving increased allocations. Yet the Government may come under pressure to balance this potential against the need for continued trade in fish with the EU, while also seeking to develop new frameworks for managing a shared and vulnerable resource. The Government faces a huge challenge in seeking to achieve a successful outcome to these negotiations. (Paragraph 177)

Relationship models

30. The bilateral relationship between the EU and Norway shows that close co-operation between adjacent coastal states is necessary and possible, though complicated. The key elements of the relationship are reaching agreement on Total Allowable Catches for shared stocks, dividing the TACs, and exchanging mutual access rights to fishing in the respective EEZs of the parties. The UK could pursue similar arrangements for managing shared stocks post-Brexit. (Paragraph 186)

31. The example of the regional Agreement for management of fisheries in Skagerrak and Kattegat may offer a suitable point of departure for a future UK-Ireland-EU relationship in the Irish Sea. (Paragraph 187)

32. As a result of its EU withdrawal the UK will no longer be party to the Northern Agreements. New bilateral, trilateral or coastal state agreements with countries such as Norway, Iceland and the Faroe Islands will be necessary, if the UK is to continue to play a part in co-ordinated management of shared and straddling stocks in the North Sea and the North-East Atlantic. The Government should therefore pursue new, or interim, agreements as a matter of urgency, building on existing models where possible. (Paragraph 191)

33. As we have concluded, fisheries management cannot be seen in isolation from that of neighbouring states. The UK could seek to negotiate continued participation in Advisory Councils in order to maintain a degree of influence over the regionalisation of fisheries management in the EU. (Paragraph 194)

34. Independent participation in international negotiations with other coastal states will be crucial for delivering sustainable management of straddling stocks. By establishing its independent membership post-Brexit of Regional Fisheries Management Organisations the UK will negotiate directly with other coastal states regarding the management and sharing of important stocks. Therefore, UK membership of relevant RFMOs, particularly NEAFC, must be established. (Paragraph 199)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

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

Declarations of interest

Lord Cunningham of Felling
No relevant interests declared
Lord Curry of Kirkharle
No relevant interests declared
Viscount Hanworth
No relevant interests declared
Lord Krebs
Member, Committee on Climate Change
Chair, Adaptation Sub-Committee, Committee on Climate Change
Duke of Montrose
Family interest in fresh water salmon fishing
Lord Rooker
No relevant interests declared
Lord Selkirk of Douglas
Diversified investment portfolio in McInroy & Wood Income Fund managed by third party
Baroness Sheehan
No relevant interests declared
Lord Teverson (Chairman)
Board Member, Marine Management Organisation
Trustee, Regen SW
Board Member, Policy Connect
Lord Trees
No relevant interests declared
Viscount Ullswater
Paid Director and Trustee of farming estate company in Cumbria
Income derived from farming and forestry, quarrying, wind turbines, fishing rights, agri-environmental schemes
Baroness Wilcox
Patron, National Lobster Hatchery Cornwall
Vice-Chair, Fisheries all Party Committee
Fishing industry background in South West England

The following Members of the European Union Select Committee attended the meeting at which the report was approved:

Baroness Armstrong of Hill Top
Baroness Browning
Lord Boswell of Aynho (Chairman)
Baroness Falkner of Margravine
Lord Green of Hurstpierpoint
Lord Jay of Ewelme
Earl of Kinnoull
Baroness Prashar
Lord Selkirk of Douglas
Baroness Suttie
Lord Teverson
Baroness Verma
Lord Whitty
Baroness Wilcox

During consideration of the report the following Members declared an interest:

Lord Green of Hurstpierpoint
President, Institute of Exports

A full list of Members' interests can be found in the Register of Lords Interests: http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at www.parliament.uk/brexit-fisheries-inquiry and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order or oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral evidence and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

*	Bertie Armstrong	QQ 1–21
*	Professor Richard Barnes	QQ 1–21
*	Professor Robin Churchill	QQ 1–21
*	Marcus Coleman	QQ 1–21
*	Hazel Curtis	QQ 1–21
*	Barrie Deas	QQ 1–21
**	Dr Bryce Stewart	QQ 1–21
*	Geir Ervik	QQ 22–41
*	Vidar Landmark	QQ 22–41
*	Sigurgeir Thorgeirsson	QQ 22–41
**	Department for Environment, Food and Rural Affairs	QQ 22–41

Alphabetical list of all witnesses

	Angling Trust	FBR0013
	Dr Thomas Appleby	FBR0012
*	Bertie Armstrong (QQ 1–21)	
	John Ashworth	FBR0004
*	Professor Richard Barnes (QQ 1–21)	
*	Professor Robin Churchill (QQ 1–21)	
*	Marcus Coleman (QQ 1–21)	
*	Hazel Curtis (QQ 1–21)	
*	Barrie Deas (QQ 1–21)	
*	Geir Ervik (QQ 22–41)	
	Fergus Ewing MSP	FBR0011
	John Farnell	FBR0005
	Fishing for Leave	FBR0002
	Institute of Economic Affairs	FBR0014
	Institute for European Environmental Policy	FBR0003
*	Vidar Landmark (QQ 22–41)	

	Marine Conservation Society	FBR0006
	New Economics Foundation	FBR0007
	UK Seafood Industry Alliance	FBR0008
**	Dr Bryce Stewart (QQ 1–21)	FBR0015
*	Sigurgeir Thorgeirsson (QQ 22–41)	
	UKIP	FBR0009
	WWF	FBR0010
**	Department for Environment, Food and Rural Affairs (QQ 22–41)	FBR0001

APPENDIX 3: GLOSSARY

ACs	Advisory Councils. Stakeholder-led organisations that provide the Commission and EU countries with recommendations on fisheries management.
By-catch	An animal, bird or fish that is caught during the course of a vessel's fishing for another species.
CFP	Common Fisheries Policy. The CFP is a set of rules regulating fisheries management in the EU.
Discarding	The practice of returning fish that have been caught, and potentially are already dead, to the sea.
EEZ	Exclusive economic zone
Equal Access Principle	This allows vessels registered in any Member State to fish, subject to criteria laid down under the CFP, within EU waters.
ICES	International Council on the Exploration of the Sea
IEEP	The Institute for European Environmental Policy
IUU	Illegal, unreported and unregulated fishing
Landings	Fish caught and landed on shore.
MFN	Most Favoured Nation. A status or level of treatment accorded by one state to another in international trade. The term means the country which is the recipient of this treatment must, nominally, receive equal trade advantages as the "most favoured nation".
Mixed Fisheries	Fisheries in which fishers fish for multiple species in the same waters.
MSY	Maximum sustainable yield
NEAFC	North-East Atlantic Fisheries Commission
NEF	New Economics Foundation
NFFO	National Federation of Fishermen's Organisations
Pelagic and demersal species	Pelagic species are fish that often occupy the open waters between the coast and the edge of the continental shelf in depths of 20-400 metres. Demersal species are those species of fish that live on, or in close proximity to, the seabed.

Relative Stability	The Relative Stability Principle is an EU distribution key for allocating fish quotas to individual countries fixed in 1983. It is a fixed percentage figure for each fish stock, based on historic fishing activity.
RFMO	Regional Fisheries Management Organisation
SFF	Scottish Fishermen's Federation
Shared stocks	Fish stocks that occur in, and move in and out of, the exclusive economic zone of two or more adjacent coastal states.
SIA	UK Seafood Industry Alliance
STECF	Scientific, Technical and Economic Committee for Fisheries
Straddling stocks	Stocks that migrate or move through a number of countries' waters as well as international waters.
TFEU	Treaty on the Functioning of the European Union
Total Allowable Catch (TAC)	The limits on what can be caught. These are set each December at EU level, based on scientific advice on the fish populations by geographic area.
QMV	Qualified Majority Voting
Quotas	Quotas denote the quantity of a given TAC that may be caught by a country or a vessel. In the EU quotas are allocated to Member States based on Relative Stability shares, after which the Member State distributes quotas to individual vessels.
UNCLOS	United Nations Convention on the Law of the Sea
WTO	World Trade Organisation