

The attached draft text was shared by the UK negotiating team with the Task Force for Relations with the United Kingdom as a draft negotiating document, that is, to be shared among negotiating teams only, in line with the provisions of the Terms of Reference.

The text is now being made public.

DRAFT UK NEGOTIATING DOCUMENT

Title: DRAFT WORKING TEXT FOR A FISHERIES FRAMEWORK AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE EUROPEAN UNION

Disclaimer:

The UK proposes the following legal text to form the basis for discussions with the EU on a Fisheries Framework Agreement. In putting forward this proposal, the UK reserves the right to amend, supplement or withdraw proposals in the light of negotiations and the proposals put forward by the European Union. The general and final provisions in this text, including appropriate exemptions may require further adjustment or amendment in light of the negotiations.

The UK proposal reflects the fact that, at the end of 2020, the UK will be an independent coastal State and will no longer be bound by the Common Fisheries Policy, and that the current arrangements on quota-sharing will end. In line with the UK's commitment to best available science, future fishing opportunities should be based on the principle of zonal attachment. The UK proposal is based on relevant international precedents, including the EU's separate fisheries agreements with other coastal states. Through this agreement, and the annual negotiations it provides for, the UK would fulfil its obligations under UNCLOS to cooperate with the EU on the sustainable management of shared stocks.

The UK recalls that it acts in these negotiations on behalf of all the territories for whose international relations it is responsible and in negotiating this draft agreement the UK Government will seek outcomes which support the territories' security and economic interests, reflecting their unique characteristics. The UK reserves its position on the application of these principles to the draft text.

This draft is being shared by the UK negotiating team with the Task Force for Relations with the United Kingdom as a draft negotiating document. As agreed in the Terms of Reference, the receiving party should not share this material outside of negotiating teams without the consent of the sending party.

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THE United Kingdom of Great Britain and Northern Ireland (“the United Kingdom”) and the European Union (“the Union”) (hereinafter referred to together as “Parties” and individually as “Party”):

CONSIDERING that on 24 January 2020 the United Kingdom and the Union entered into the Agreement on the withdrawal of the United Kingdom from the Union and the European Atomic Energy Community (hereinafter referred to as “Withdrawal Agreement”);

RECOGNISING that at 23:00 GMT on 31 January 2020 the United Kingdom withdrew from the Union;

DESIRING to ensure the continued sustainable and rational management of the fish stocks of the waters adjacent to their coasts;

TAKING into account the bilateral agreement on fisheries of 27 February 1980 between the European Economic Community and the Kingdom of Norway, and the agreement on fisheries between the European Economic Community and the Government of Denmark and the Home Government of the Faroe Islands of 15 March 1977;

RECOGNISING the need for close co-operation and co-ordination with the Kingdom of Norway, the Faroe Islands and other coastal states, including within the framework of the Parties’ respective bilateral relationships, particularly in relation to stocks (including stocks of associated species) occurring both within the waters of either or both the Parties to this Agreement and within the waters of the Kingdom of Norway or the Faroe Islands;

TAKING INTO ACCOUNT the Parties’ membership of regional fisheries management organisations;

AFFIRMING that the exercise within the Parties’ relevant waters of sovereign rights for the purpose of exploring, exploiting, conserving and managing the living resources should be conducted pursuant to and in accordance with the principles of international law, including the United Nations Convention on the Law of the Sea 1982;

WISHING TO CONCLUDE a new agreement establishing the terms and conditions under which the Parties’ fisheries relations shall be conducted in the future;

HEREBY AGREE AS FOLLOWS:

ARTICLE 1

Definitions

Throughout this Agreement:

“EEZ” means the exclusive economic zone established (and adjusted at later dates as appropriate) by a State in accordance with Part 5 of the United Nations Convention on the Law of the Sea 1982 (“UNCLOS”);

“fishing opportunities” means (a) the maximum quantities of shared stocks of particular descriptions that may be caught annually and (b) the maximum number of days that vessels may spend at sea annually fishing for particular descriptions of shared stocks;

“Fisheries Co-operation Forum” means the forum to be established under Article 5;

“ICES” means the International Council for the Exploration of the Sea;

“Member State” means a State which is a member of the Union;

“relevant waters” means:

- (a) in respect of the United Kingdom, the United Kingdom’s EEZ;
- (b) in respect of the Union, the EEZ of a Member State, or where a Member State has not established its EEZ, the waters in respect of which that Member State has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, which, for the avoidance of doubt, excludes its territorial sea and internal waters;

“sea fish” means fish of any kind found in the sea; and for the avoidance of doubt, this includes shellfish, and shellfish includes molluscs and crustaceans of any kind found in the sea;

“shared stocks” means biological stocks of sea fish which are found in the relevant waters or territorial sea of the United Kingdom, and also in the relevant waters or territorial sea of a Member State;

“TAC” means the total allowable catch, that is, the maximum quantities of a stock (or stocks) of particular descriptions that may be caught annually;

“territorial sea” means the territorial sea established (and adjusted at later dates as appropriate) by a State in accordance with UNCLOS;

“this Agreement” means this instrument including its Annexes;

“vessel” means:

- (a) in respect of the United Kingdom, a fishing vessel flying the flag of the United Kingdom and licensed by the United Kingdom;
- (b) in respect of the Union, a fishing vessel flying the flag of a Member State and licensed by a Member State.

ARTICLE 2

Annual negotiations on fishing opportunities and access

1. The Parties shall negotiate annually to seek to determine the following matters for the next year:

- (a) fishing opportunities, taking into account the best scientific evidence available to the Parties, the ICES-recommended TAC, the interdependence of stocks, the work of appropriate international organisations, socio-economic aspects and other relevant factors;
- (b) the amount of fishing opportunities mentioned in sub-paragraph (a) above that will be available to each Party, based on the principle of zonal attachment; and
- (c) any access for each Party's vessels to relevant waters of the other Party for fishing.

2. The annual negotiations referred to in paragraph 1 shall be co-ordinated with other annual negotiations between regional coastal states that affect either or both of the Parties. A written record documenting the arrangements made between the Parties as a result of negotiations under this Article shall be produced and signed by the heads of delegation of the Parties.

3. Where, during the course of a year, fishing opportunities need to be changed, or new fishing opportunities determined, to take account of updated scientific evidence, to correct errors or to deal with unforeseen circumstances, the Parties shall take this into account and shall seek to determine the new or changed fishing opportunities and an appropriate adjustment to their respective amounts (or in the case of new fishing opportunities, new amounts). In the case of changes to fishing opportunities, the Parties' respective amounts will normally be adjusted proportionately to the amount of the change.

ARTICLE 3

Authorisations, compliance and enforcement

1. Any vessel granted access to fish in the relevant waters of the other Party pursuant to annual negotiations under Article 2 must obtain an authorisation and (in the case of Union vessels) a licence from that other Party before commencing fishing operations, and when fishing within the relevant waters of the other Party, shall comply with all applicable rules and regulations (including any conditions in licences issued by the United Kingdom) governing fishing activities in that area.

2. Each Party shall in a timely manner provide to the other Party a list of its vessels eligible to fish in the relevant waters of the other Party.

3. Each Party shall take all necessary measures to ensure compliance by its vessels with the provisions of this Agreement and with the rules and other regulations which are applicable to those vessels in the other Party's relevant waters.

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4. Each Party may take such measures in conformity with international law as may be necessary to ensure compliance with the provisions of this Agreement by vessels of the other Party.

ARTICLE 4

Fisheries management

1. Each Party shall manage its own fisheries independently and may take such measures in its relevant waters as it considers appropriate to ensure the rational and sustainable management of fisheries.

2. Each Party shall, to a reasonable extent and in good time, notify the other Party in advance of any significant new fisheries management measures or changes to existing measures that would affect the vessels of the other Party. This obligation shall not apply in emergency situations where the change or new measure is urgently required.

ARTICLE 5

Co-operation

1. The Parties shall set up a Fisheries Co-operation Forum for discussion and co-operation in relation to sustainable fisheries management, including monitoring, control and enforcement.

2. The Parties shall use their best endeavours to decide upon the terms of reference and methods of working for the Fisheries Co-operation Forum by 1 January 2021.

3. The Parties may decide to open the Fisheries Co-operation Forum (or any part of it) to other coastal states in order to co-operate on sustainable fisheries management.

ARTICLE 6

Data sharing

1. The Parties agree to share vessel monitoring systems data relating to their respective vessels and information to prevent, deter and eliminate illegal, unreported and unregulated ("IUU") fishing.

2. If either Party grants access to any of its relevant waters to vessels of the other Party, the Parties agree, subject to applicable law, to facilitate the sharing of all data and information which it is necessary or desirable for the other Party to see, in addition to the data covered in paragraph 1, for the purposes of:

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- (a) monitoring, controlling and enforcing compliance with applicable rules and regulations (including licence conditions);
- (b) monitoring the use of fishing opportunities;
- (c) managing sea fisheries sustainably;
- (d) developing marine and fisheries policies;
- (e) preventing, deterring and eliminating IUU fishing; and
- (f) any other purpose related to the implementation of this Agreement or any access arrangements made under it.

As a minimum this shall include the data, and agreed provisions for facilitating data sharing, set out in Annex 1 to this Agreement.

3. Each Party shall protect all information which is confidential or protected by law from disclosure and which comes into its possession or control under or in connection with this Agreement, including in particular any personal data or commercially sensitive information, and except as required by law, shall not disclose it, misuse it or use it for purposes other than those connected with this Agreement.

ARTICLE 7

Designation of ports

1. The Parties shall each ensure that, by 1 January 2021, the ports listed in Annexes 2 and 3 (respectively) to this Agreement have been designated in accordance with:

- (a) Article 21 of the North-East Atlantic Fisheries Commission's Scheme of Control and Enforcement; and
- (b) any provision of UK or EU law relating to the prevention, deterrence or elimination of IUU fishing.

2. The Parties shall consult each other in advance if they wish to designate additional ports, have additional ports designated, or remove the designation of a port listed in Annex 2 or 3.

ARTICLE 8

Consultation and dispute resolution

The Parties agree to consult on questions relating to the implementation and proper functioning of this Agreement, or in the event of a dispute concerning the interpretation or application thereof.

ARTICLE 9

Suspension

1. The application of this Agreement may be suspended on the initiative of either of the Parties in the event of:

(a) a dispute arising between the Parties over the interpretation or application of this Agreement or its implementation; or

(b) failure by either of the Parties to comply with the provisions of this Agreement.

2. Suspension of the application of this Agreement shall be notified in writing by the Party concerned to the other Party and shall take effect three months after receipt of the notification. The Parties shall consult each other from the moment of notification of suspension with a view to finding an amicable settlement to their dispute within three months. Where such settlement is reached, implementation of this Agreement shall resume.

ARTICLE 10

Amendments

1. The Parties may consult, at the request of either Party, on possible amendments to this Agreement.

2. This Agreement may be amended by exchange of diplomatic notes if the Parties so agree.

3. Any amendment shall enter into force on the date specified by the Parties in their exchange of diplomatic notes.

ARTICLE 11

Law of the sea

Nothing contained in this Agreement shall affect or prejudice in any manner the views of either Party with respect to any questions relating to the law of the sea.

ARTICLE 12

Entry into force, application and termination

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1. Each Party shall notify the other Party in writing through diplomatic channels of the completion of its domestic requirements for entry into force of this Agreement. This Agreement shall enter into force on a date to be mutually agreed and specified in these notifications.

2. The following provisions of this Agreement shall apply from the day the Agreement enters into force in accordance with paragraph 1:

Article 1 (Definitions)
Article 2 (Annual negotiations on fishing opportunities and access)
Paragraphs 1 and 2 of Article 3 (Authorisations and compliance)
Article 5 (Co-operation)
Article 7 (Designation of ports) and Annexes 2 and 3 to this Agreement
Article 8 (Consultation and dispute resolution)
Article 9 (Suspension)
Article 10 (Amendments)
Article 11 (Law of the sea)
This Article, except paragraph 5.

3. The remaining provisions of this Agreement (including Annex 1) shall apply from 1 January 2021. For the avoidance of doubt, those remaining provisions are:

Paragraphs 3 and 4 of Article 3 (Enforcement)
Article 4 (Fisheries management)
Article 6 (Data sharing) and Annex 1 to this Agreement
Paragraph 5 of this Article.

4. This Agreement shall remain in force until it is terminated by either Party giving to the other Party two years' written notice of termination.

5. This Agreement shall entirely supersede and replace any existing agreements concerning fishing by vessels of one Party within the relevant waters of the other Party.

[SIGNATURE TEXT]

Annex 1: Data sharing

[PLACEHOLDER]

Annex 2: List of ports to be designated by the United Kingdom

[PLACEHOLDER]

Annex 3: List of ports to be designated by the European Union

[PLACEHOLDER]