

FISHERIES AFTER BREXIT

INTERNATIONAL ASPECTS

- cooperation with other coastal states for joint stocks (Art. 63 (1) UNCLOS)

consultations with other states within NEAFC (North East Atlantic Fisheries Commission) for migratory species (Art. 63 (2) UNCLOS)

- access for other states for surplus stocks (Art. 62 (2) UNCLOS)

Regime for 2020

- Same as in 2019
for TAC/quota, access to waters and resources,
fishing conditions
- Except for international waters and waters of
third countries -> UK has to negotiate itself

Art. 127 Withdrawal Agreement

1. Unless otherwise provided in this Agreement, Union law shall be applicable to and in the United Kingdom during the transition period.

(.....)

3. During the transition period, the Union law applicable pursuant to paragraph 1 shall produce in respect of and in the United Kingdom the same legal effects as those which it produces within the Union and its Member States, and shall be interpreted and applied in accordance with the same methods and general principles as those applicable within the Union.

Fixing of TACs

- For stocks = a fish species occurring in an area e.g. plaice in area IVa
 - Area defined by ICES for the Atlantic Ocean
 - Yearly recommendations for TACs
 - To be implemented by coastal state (or partly,; or not)

Joint stocks

- Stocks occurring in one area, but in different EEZ
- Mainly UK – EU, but also UK – EU – Norway, UK – Faroe Islands
- About 100 stocks around British Isles

-> consultations for joint TACs necessary

- In EU/Norway not only TAC, but also quota

-> Fishery agreements UK – EU, UK – Norway, UK – Faroe Islands necessary?

Migratory species

- Same principles, but more states involved (not only coastal states, but also other states fishing in international waters)
- E.g. mackerel, blue whiting migrating between waters of UK, EU, Norway, Faroe Islands, Iceland, Greenland and beyond EEZs
- UN straddling stocks agreement: obligation for coastal states and states fishing on high seas to agree on conservation measures through relevant regional fishery organisations
- NEAFC regulates fisheries in North-East Atlantic beyond EEZs, but may also do so within coastal states waters
-> consultations on TAC between coastal states in framework of NEAFC

NEAFC

- Members: EU, Norway, Faroe Islands, Greenland, Iceland, Russian Federation
- Makes recommendations on TAC and control measures
- Binding on members
- Non-members may become Cooperating Non-Contracting Parties
-> agree to apply NEAFC conservation and management measures, but no voting right (Art. 8 UNFSA)
- Non Cooperating Non-Contractual Parties have no right to fish for regulated stocks (Art. 8, 13 UNFSA)
- -> UK not (yet) member when conservation measures are established for 2020 -> Contracting Party or Cooperating Non-Contracting Party

Access to UK/EU waters

- From 2021 full sovereignty – London Fisheries Convention 1964 revoked
- in theory: access only for surplus stocks
- In practice: fleets are specialized and fish in all waters (UK vessels in EU waters and vice versa)

- -> mutual interest for maintaining actual situation
- -> wide fishery agreement UK – EU (see Political Declaration Part II Ch. XII nrs 71 ff)

Political Declaration Part II Ch. XII nrs 71 ff

- **XII. FISHING OPPORTUNITIES**

- **71.** The Parties should cooperate bilaterally and internationally to ensure fishing at sustainable levels, promote resource conservation, and foster a clean, healthy and productive marine environment, noting that the United Kingdom will be an independent coastal state.
- **72.** While preserving regulatory autonomy, the Parties should cooperate on the development of measures for the conservation, rational management and regulation of fisheries, in a non-discriminatory manner. They will work closely with other coastal states and in international fora, including to manage shared stocks.
- **73.** Within the context of the overall economic partnership the Parties should establish a new fisheries agreement on, inter alia, access to waters and quota shares.
- **74.** The Parties will use their best endeavours to conclude and ratify their new fisheries agreement by 1 July 2020 in order for it to be in place in time to be used for determining fishing opportunities for the first year after the transition period.

Access to EU/UK-ports

- NEAFC Scheme of Control and Enforcement 2007 implemented by EU regulation 1005/2008 (what about UK legislation?)
- -> landing only in designated ports
 - > after authorisation upon prior notice + landing declaration by vessel owner + catch certificate validated by flag state after notification to EC
 - > no authorisation if catch is in contravention of applicable conservation and management measures

Membership of international fisheries organisations (1)

A. Multilateral organisations :

UK member of UNCLOS, FAO

Membership of international fisheries organisations (2)

B. Regional fisheries management organisations

Rule -> EU alone member -> accession UK possible -> e.g. NEAFC, NAFO, NASCO in the North Atlantic.

relevant for other RFMO (GFCM, SIOFA, IATTC, WCPFC, CCSBT)?

Exceptions -> UK member

- by virtue of overseas territories, ICCAT, iOTC, SEAFO, SPFRMO
- > new accession necessary or declaration sufficient?
- CCAMLR -> dealing also with environment

Accession to fishery agreements

- Multilateral agreements:
the UNFSA, FAO Compliance Agreement; FAO Port State Control Agreement
- Bilateral agreements
any interest???

Conclusion

- No complete autonomous policy, because of international obligations
- Coordination with EU and other countries in the North Atlantic necessary
- Fisheries agreement of paramount importance
- Accession to NEAFC and other RFMO necessary or useful
- Conclusion of bilateral agreements with Morocco and Mauritania for continuation of actual fishing interests
- Accession to FAO agreements to promote sustainable fisheries

REFERENCES (1)

- UNCLOS : United Nations Convention on the Law of the Sea 1982
- ICES : International Council for the Exploitation of the Sea
- UNFSA : Agreement on the implementation of the provisions of the United Nations Convention the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks 1995
- NEAFC : North-East Atlantic Fisheries Commission

REFERENCES (2)

- Regulation Nr. (EC) 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999, OJ 2008 L 286/14
- FAO : Food and Agricultural Organisation
- FAO Compliance Agreement : Agreement to promote compliance with international conservation and management measures by fishing vessels on the high sea 1993
- FAO Port State Control Agreement : Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing 2009

REFERENCES (3)

- NAFO: North Atlantic Fisheries Commission
- NASCO : North Atlantic Salmon Commission
- GFCM : General Fisheries Commission for the Mediterranean
- SIOFA : Southern Indian Ocean Fisheries Agreement
- IATTC : Inter American Tropical Tuna Commission
- WCPFC : Western and Central Pacific Ocean
- CCSBT : Commission for the Conservation of Southern Bluefin Tuna
- SEAFO : South East Atlantic Fisheries Organisation
- ICCAT : International Convention for the Conservation of Atlantic Tunas)
- IOTC : Indian Ocean Tuna Convention
- SPFRMO : South Pacific Regional Fisheries Management Organisation
- CCAMLR : Commission for the Conservation of Antarctic Marine Living Resources