

10 Conclusions

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Chapter 1 contextualised the book by outlining the diversity of the fishing industry across the nations of the UK, and the EU fishing industry as it pertains to fishing in UK waters. It is evident that the EU relies more on access to UK waters than UK vessels in EU waters. However, the UK industry relies on the EU heavily as its key export market. The importance of reciprocal access to both parties' waters and markets is evident, and Brexit has brought about several difficulties in this regard.

Chapter 2 contains a pertinent contribution by Robin Churchill, setting out the applicable fisheries policy impacting the UK and EU prior to, during and after Brexit. The chapter outlines the fact that, despite now being responsible for managing its fisheries as a so-called "independent coastal state", the UK's (and the EU's, for that matter) fisheries management autonomy is constrained significantly its obligations under the TCA. Those constraints include: i) the adoption of management measures; ii) the allocation of catches; and iii) access to fishing grounds.

Andrew Serdy's detailed critical analysis of the fisheries provisions of the Trade and Cooperation Agreement (TCA) follows in Chapter 3. The UK fell short of achieving its desired aims set out in the fisheries White Paper as a result of fisheries being the final sticking point so late in the TCA negotiation game. The UK was unable to secure catch shares on the basis of zonal attachment, and could not decouple the inexplicable link between trade and fisheries. The result is trade of fisheries and other goods linked in a single instrument, with which the EU can leverage to their advantage. Serdy also highlights that those future adjustments of UK quota shares may come at a price of unpredictable concessions. Importantly, the dispute settlement provisions of the TCA fail to address overexploitation of fish stocks and are "back to front and wide open to abuse".

In the spirit of cooperative fisheries management, Chapter 4 builds on the issue of annual negotiation of fisheries arrangements between the UK and EU highlighted by Serdy and Churchill.. Interestingly both parties must now proactively engage in negotiations for shared stocks in a trilateral format with Norway for the first time. In addition, Norway and the UK, and the EU and the UK have entered negotiations for bilateral fishing arrangements. The mixed

success of these negotiations, analysed within the chapter, raises questions for the future of fisheries cooperation in unpredictable fisheries management regimes in the North-East Atlantic.

Turning to within the UK, Chapter 5 lays out the domestic legislation passed by the UK Parliament to facilitate its departure from the EU. It then introduces the key provisions of the Fisheries Act 2020, and then outlines devolution and evaluates the competency of devolved fisheries policy across the Scottish, Welsh and Northern Irish legislatures as nations within the UK. Arguably, the Fisheries Act facilitates and empowers the devolved administrations with more regulatory authority over their fisheries, with greater control, adaptive capacity and flexibility in fisheries management and conservation than under the EU's common fisheries policy. However, as indicated in the previous four chapters, the present trade and export barriers outweigh the benefits to greater regulatory autonomy in fisheries. This area is still developing.

Chapter 6, co-authored with Mercedes Rosello, explores the legal framework applicable to the UK in exercising sovereignty over its waters with regard to fisheries enforcement through analysis of two pertinent case studies of fisheries conflicts requiring enforcement/exercising of sovereignty by the UK in recent times. The illustrative case study of Rockall provides an interesting contextualisation of fisheries enforcement obligations

Despite Brexit and departure from the common fisheries policy, the UK still has international obligations for the conservation and management of fisheries and the protection and preservation of the marine environment. These are examined in Chapter 7, which makes the point that the UK remains bound by a suite of international environmental obligations that will shape any future fisheries legislation or policy relating to the conservation and sustainable use of the marine environment. This was demonstrated through the inclusion of some, but not all, key fisheries governance elements highlighted in this chapter within the Fisheries Act 2020, as illustrated in Chapter 5.

Chapter 8 turns to another aspect of international fisheries. It outlines the complexities brought about by Brexit with regard to the UK's membership and participation in regional fisheries management organisations (RFMOs) where it was represented by the EU as a member or non-member. Examining five key RFMOs in turn, the chapter illustrates how the Withdrawal Agreement and subsequent approval by the EU facilitated this. However, the UK may face issues with quota allocation, and its membership of the Indian Ocean Tuna Commission remains a contentious issue.

Finally, Chapter 9 presents a synthesis of expertise from across disciplines and stakeholders from both sides of the English Channel and the Irish Sea. This was achieved through the participation of 11 contributors in the "Legal Challenges Faced by Coastal Communities, Brexit and the New British Fishing Policy" workshop held online on 8 June 2021. Evidently, few in industry are satisfied by the outcome of the negotiations between the UK and the EU. For the fishing industry, the annual negotiations for total allowable catches have created a shared feeling of uncertainty.

It is hoped that this book has highlighted the key cross-cutting issues by examining fisheries in a post-Brexit world from an economic, social and environmental, legal and policy perspective – and has been able to provide inferences that will be helpful for academics, policy and decision-makers, and importantly, the UK and EU fishing industries.

Now Brexit is “done”, there will continue to be developments, issues and disputes between stakeholders, and while the new legal framework has been negotiated, we are still in the early stages of its implementation, and many provisions of the TCA, for example, have yet to be tried and tested.