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## Le Brexit et la pêche : une question d'attentes contradictoires

### Brexit and Fisheries: A Question of Conflicting Expectations

### Brexit und Fischerei: Eine Frage widersprüchlicher Erwartungen

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#### Abstract

The UK fishing sector has been under the spotlight since the beginning of the Brexit debate. Political commentators claimed that up to 90 per cent of British fishers supported Brexit as they considered the UK was disadvantaged compared to other EU Member States. Their main grudge is about the equal access that all Member States have had to all EU waters – with the exception of territorial waters, up to 12 nautical miles from the coast – since the formal inception of the Common Fisheries Policy (CFP) in 1983. Combined with what they perceive to be an unbalanced allocation of fishing quotas, this legal framework is thought by the UK fishing industry to be the main reason for the poor management of EU fisheries, which could be terminated following Brexit thus regaining the UK's status as an independent coastal state. The key issue addressed in this article is the possible reallocation of fishing opportunities within British waters. It outlines the current allocation system and summarises the views of major stakeholders. This is complex as historical fishing rights may or may not be acknowledged but it remains that the UK fishing industry needs access to EU markets and EU labour to bring the fish to value

**Introduction:**

Brexit could result in the UK’s withdrawal from the Common Fisheries Policy (CFP), and the possible (re)confirmation of the UK’s control of British waters and reallocation of fishing opportunities in them. This is likely to have important implications for the UK’s fishing fleet, and those of the other EU member states (the EU-27).

The CFP’s overall objective is to ensure that fishing and aquaculture are environmentally, economically and socially sustainable and that they provide a source of healthy food for EU citizens. Its aim is to foster a dynamic fishing industry and ensure a fair standard of living for fishing communities.

The CFP initially formed part of the Common Agricultural Policy, but gradually developed as a separate policy as the EU evolved. The management of stocks (or ‘conservation policy’) is its core policy goal. Following the last reform of the CFP in 2014, maximum sustainable yield (**MSY**) has been set as the main management target, where by 2020 all fish stocks subject to a total allowable catch (TAC) constraint are to be managed according to MSY in mind. If properly implemented this would maximize catches and help achieve the economic and social sustainability of the fisheries sector. However, another key policy tool included in the 2014 CFP Reform was the inclusion of a “landing obligation”, covering all TAC stocks, effectively a ban on discarding fish. This potentially conflicts with the MSY objective, because fishing has to cease once the most constraining TAC quota has been exhausted (Mardle and Metz, 2017). Even so, to help fishers to achieve the MSY, various regulatory tools exist, in particular the **allocation of fishing opportunities**.

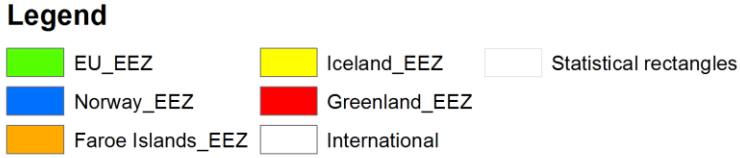
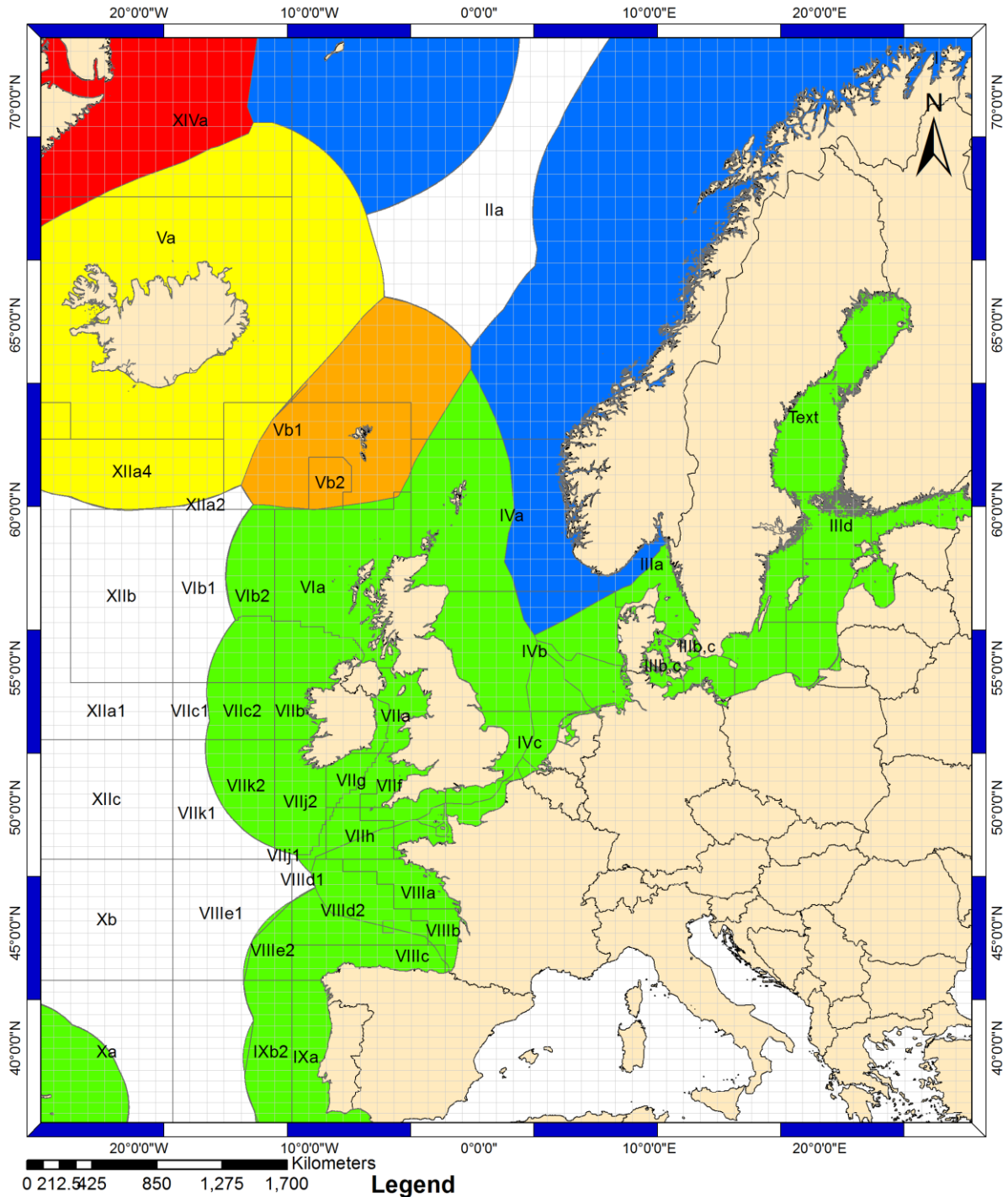
The question of the reallocation of fishing opportunities, with regard to Brexit, is at the heart of this article. Following a brief presentation of the current allocation of fishing opportunities and fishing activities in British waters, different views of the likely effects of Brexit on future fishing opportunities are discussed, before a consideration of several options regarding resource sharing, which will include a look at other fishing agreements. In discussing the policy it is particularly important to distinguish landings from catches, both economically and environmentally.

Map 1: Changes in the legal status of the Economic Exclusive Zones	

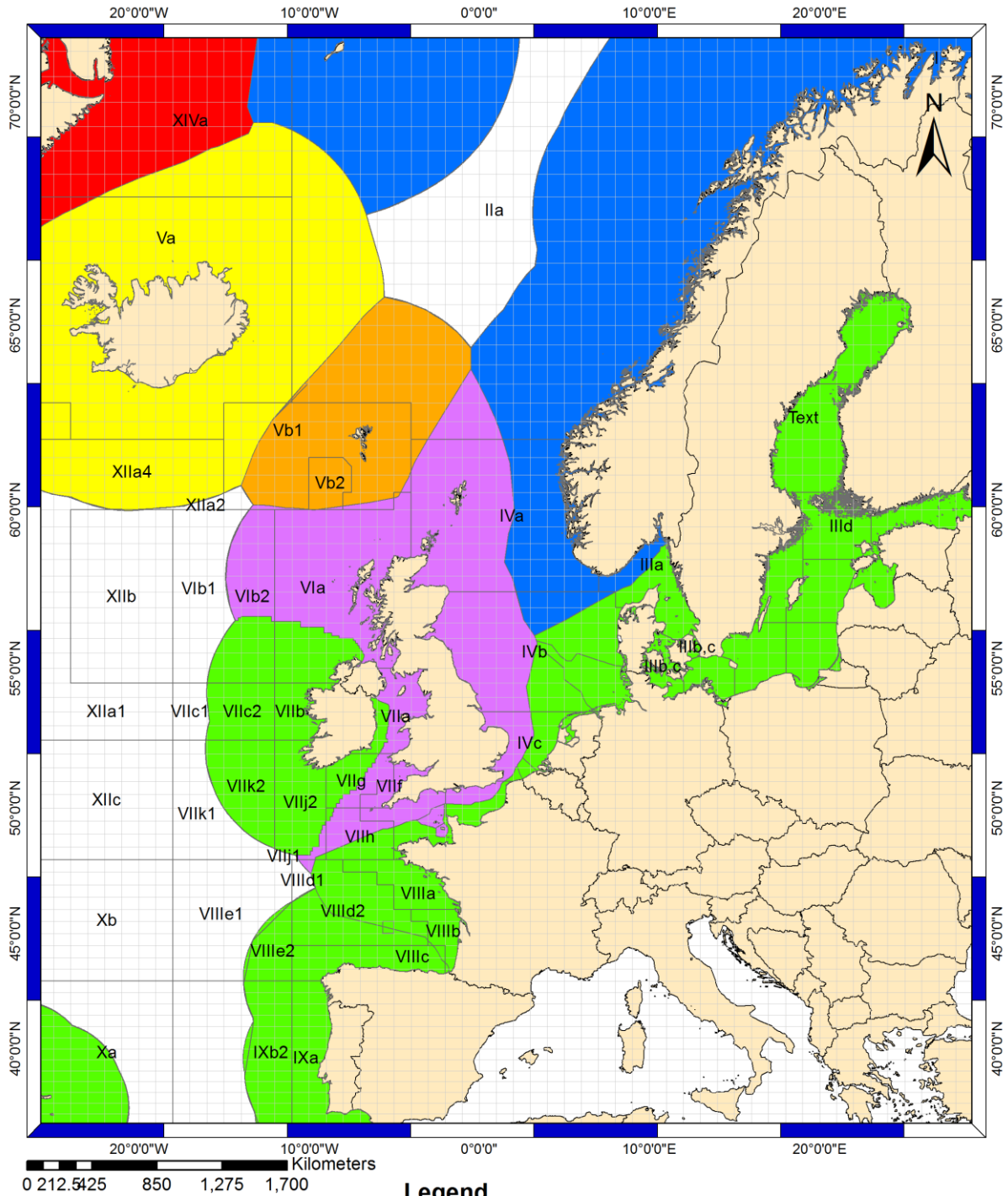
Source: Goulding and Szalaj, 2017, from ICES sources

a)

Pre brexit



b) Post brexit



### ***Allocation of fishing possibilities under the current CFP***

Fisheries played a prominent role in the negotiations leading to the UK, Ireland and Denmark joining the European Economic Community (EEC) in 1973, and in Norway's decision not to join. The CFP, as a separate policy, was established in 1983, following the development of exclusive economic zones (EEZs) of up to 200 nautical miles by some key countries during the 1970s under the United Nations Convention on the Law of the Sea (UNCLOS, 1982). It is, though, important to note that when the UK joined the EU, formal British EEZs were not defined. Brexit means that a UK EEZ must be established from the existing EU EEZ, as illustrated in Map 1.

The establishment of EEZs resulted in a move away from the fundamental principle of freedom of access, as national rights to exclusive coastal fishing in *territorial waters* —until then defined as lying within 12 nautical miles of the coast— were extended to include EEZs reaching up to 200 nautical miles from the coast.<sup>1</sup> Under the CFP the Member States (MSs) agreed to collectively manage EEZ fisheries resources, with a hierarchy of responsibilities that still requires MSs to manage their own fishing fleets to balance fishing effort to levels of resources.

Therefore, fishing opportunities are defined by two main forms of access regulation: i) regulations on the quantities fished (the output), and ii) regulations on fishing effort (the input), including some spatiotemporal components (e.g. number of days at sea dedicated to one activity in a given area). For many exploited fish stocks, where scientific assessment allows, the EU sets Total Allowable Catches (TACs). TACs are **catch limits** (expressed in tonnes or numbers), and were first defined in 1983. The European Commission prepares the proposals, based on scientific advice on the status of fish stocks from advisory bodies such as the International Council for the Exploration of the Sea (**ICES**) and the EU's Scientific, Technical and Economic Committee for Fisheries (**STECF**). Some multi-annual plans contain rules for the setting of the TACs. TACs are **set annually for most stocks** (every two years for deep-sea stocks) by the Council of Fisheries Ministers. For stocks that are shared and jointly managed with non-EU countries, TACs are agreed with those (groups of) non-EU countries<sup>2</sup>.

TACs are shared between EU countries in the form of national quotas. For each stock a different allocation percentage per EU country is applied for the sharing out of the TAC. This fixed percentage is known as the **relative stability** key. It is the responsibility of MSs to allocate the share of each TAC received to their registered fishing vessels, based for example on a fixed share of the TAC, known as a Fixed Quota Allocation (FQA) in the UK (see Hatcher and Read, 2001). Yet, a significant part of the FQA is currently held by UK-“flag” vessels owned by EU-27 companies (the so-called ‘quota-hopping’ phenomenon, see Hatcher et al, 2002). This can reach up to 96% of the total FQA for some stocks in some areas (e.g. herring) (Le Gallic, Mardle & Metz, 2017).

If needed, following determination of the TAC, EU countries can exchange quotas with other EU countries (the so-called **quota-swap** system) enabling countries to balance quotas as required.

For species that are not managed under the TAC system, and which can represent up to 50 per cent of the production in some areas such as the English Channel, fishing opportunities can be defined in a rather different, and sometimes complex system, as in the case of Seabass. In both cases, fishing opportunities are partly based on so-called **historical rights**, i.e. fishing opportunities prior to the establishment of the CFP.

The general process in place to allocate fishing opportunities within British waters is likely to be strongly affected by Brexit, which can have some important implications for both the British and EU-27 registered fishing fleets, as indicated in Map 2. This depicts the value of landings by UK (Map 2a) and EU-27 (Map 2b) registered boats of fish landed from each ICES rectangle of what is expected to become the UK's EEZ, with the more important areas shaded darker. First, note that there are some strong similarities between the rectangles fished by UK and EU-27 registered vessels. Secondly, EU-27 landings are particularly important from the Northern North Sea and the Western Waters. A summary of important species, ordered by landings value, taken from the UK EEZ is presented in Table 1 for UK and EU-27 registered boats, with an indication of the proportion of those species taken from the UK EEZ. Species that have high proportions for the EU-27 countries include mackerel (52%), herring (65%) and saithe (51%)

Table 1: Summary of important species, ordered by landings value ('000 euros) from the UK EEZ

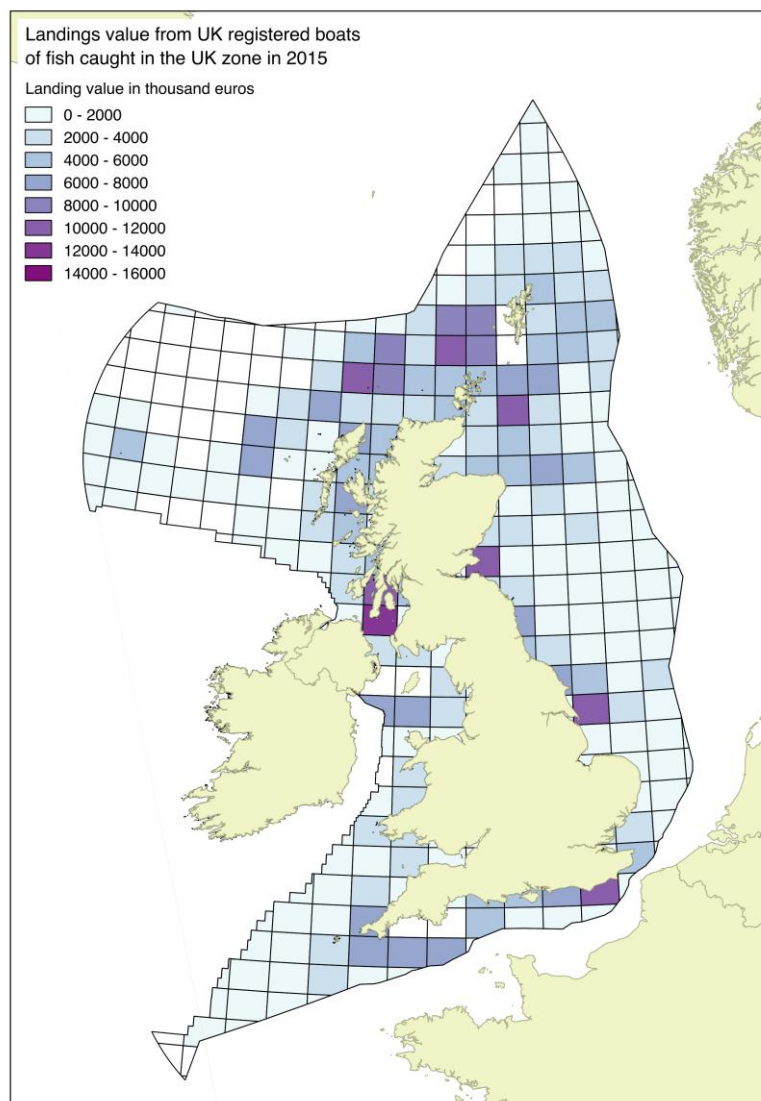
#	Species	Landings value of fish taken from the UK EEZ by EU-27 and UK registered boats		Total landings value (Northern Europe) by EU-27 and UK registered boats		Proportion of total landings taken in the UK EEZ by EU-27 and UK registered boats	
		EU-27	UK	EU-27	UK	EU-27	UK
1	Mackerel	90,508	125,376	175,408	166,407	52%	75%
2	Nephrops	26,107	125,752	109,849	134,671	24%	93%
3	Herring	65,547	25,011	100,749	26,028	65%	96%
4	King scallops	7,471	73,082	72,198	81,055	10%	90%
5	Anglerfish	23,764	48,760	135,794	67,859	17%	72%
6	Sole	47,955	14,990	192,698	19,823	25%	76%
7	Haddock	8,585	46,656	28,120	60,449	31%	77%
8	Crabs	1,916	41,536	23,453	47,136	8%	88%
9	Hake	24,005	18,699	243,670	38,094	10%	49%
10	Lobster	299	38,766	15,803	39,678	2%	98%
11	Saithe	18,289	11,937	35,814	14,631	51%	82%
12	Plaice	16,878	11,001	104,183	28,627	16%	38%
13	Whelks	1,140	25,060	19,528	25,730	6%	97%

14	Whiting	12,072	12,816	34,149	14,705	35%	87%
15	Cod	5,720	18,559	34,260	24,091	17%	77%
16	Blue whiting	18,160	2,548	48,545	8,270	37%	31%
17	Megrim	10,233	9,766	55,865	20,488	18%	48%
18	Cuttlefish	4,346	13,035	26,770	14,694	16%	89%
19	Lemon sole	5,011	8,816	20,809	11,208	24%	79%
20	Bass	5,069	6,575	37,907	6,948	13%	95%
	Others	87,174	70,262	716,757	88,483	12%	79%

Source: Authors' calculations based on FIDES (2017) for landings weights and STECF AER (2016) for prices

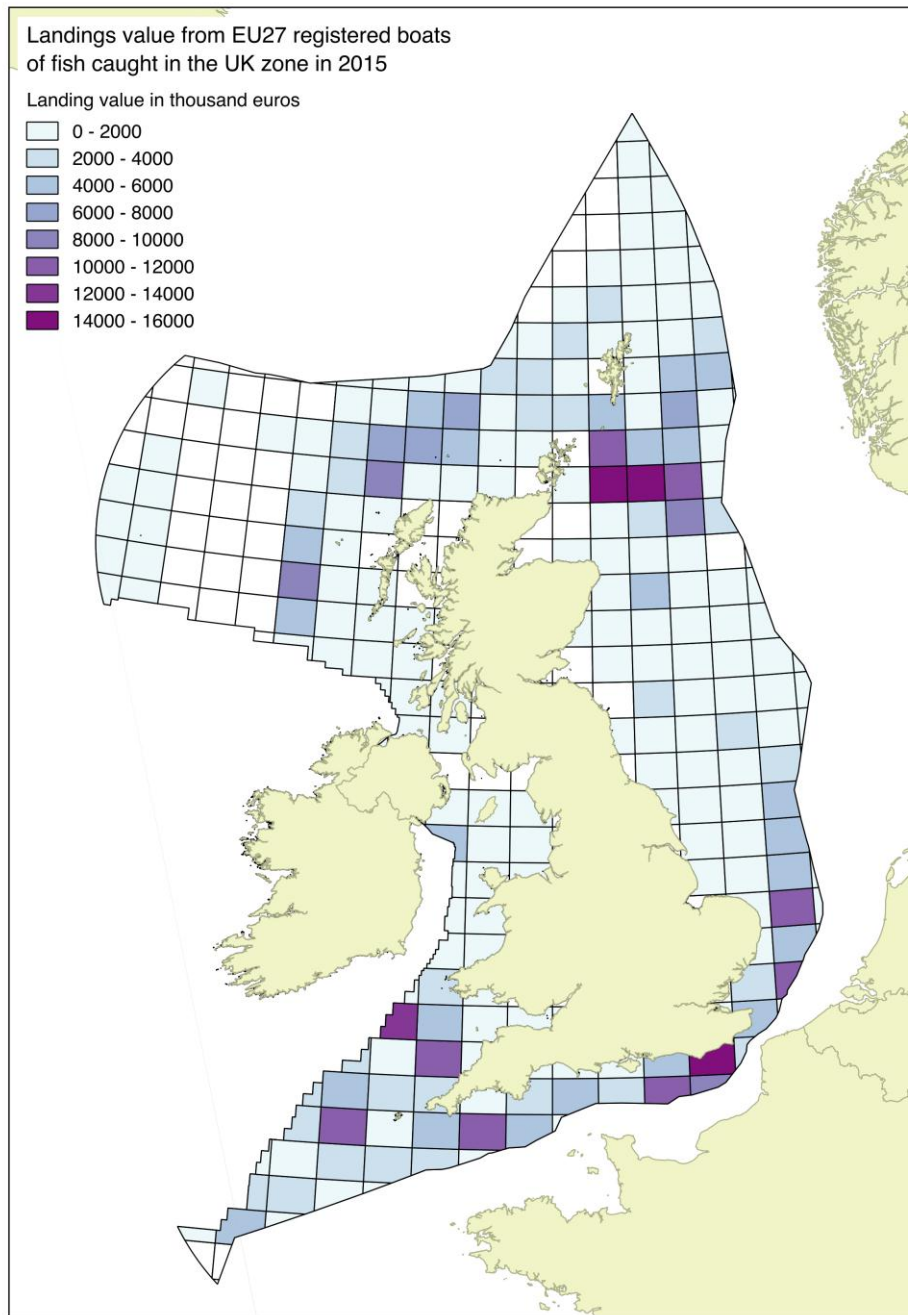
Map 2: Fishing activity (by landings value '000 euros) by UK and EU-27 fleets within British waters

**Map 2a: landings value from UK registered boats of fish caught the in UK zone in 2015 (in thousand euros)**





**Map 2b: landings value from EU-27 registered boats of fish caught in UK zone in 2015 (in thousand euros)**



Source: Authors' calculations based on FIDES (2017) for landings weights and STECF AER (2016) for prices

### ***The question of (foreign) fishing rights***

Many countries' EEZs have historically been fished by "foreign" registered vessels. Often this has benefitted both countries involved, as each country's vessels have had some reciprocal access to the other's waters. The process of granting fishing rights to foreign vessels, especially in the EU, has been

based on historical practices. In the waters around the UK this results in a complicated picture. It means that some areas located within the UK's exclusive zone of between 6-12 nautical miles of the British coast (based on the London Convention of 1964) are currently covered by such foreign fishing rights, especially Irish and French (see **Map 3**). Conversely, the UK benefits from fishing rights within 6-12 nautical miles of the French and Belgium coasts.

### ***Different viewpoints***

#### *UK primary producers*

As indicated above, the UK fishing sector is advocating reclaiming UK waters for UK vessels (termed "**zonal attachment**"). Access to UK waters would then be restricted to UK register vessels, or a number of EU-27 vessels on UK terms: for example, specific technical measures and quotas could be defined by the UK. All associations insist that the British government should oppose all *quid pro quo* deals, including granting unlimited access to UK waters for EU vessels in exchange for unlimited access to the EU's single market for all UK products (New Economics Foundation, 2017).

Indeed the British Government clearly announced its intention to introduce a Fisheries Bill in the 2017 Queen's Speech, which will "will allow [the UK] to control access to [its] territorial waters."<sup>3</sup> In this regard, the objective is to obtain exclusive British national fishing rights up to 200 miles from the coast. However, it is also recognized that the UK may trade-off some of these rights in order to obtain access to the EU27's marine area, or to the EU27 market for fisheries products (see below). In order to facilitate the process of 'recovering' UK ownership of British waters, in July 2017 the British Government announced its plan to leave the 1964 London Convention.<sup>4</sup>

However, several stakeholders seem to be agreed on the continuation of foreign fishing rights in UK waters, provided those rights will be decided and managed by British, rather than EU, authorities (New Economics Foundation, 2017).<sup>5</sup>

#### *UK processors / traders*

UK processors were quieter than the fishing industry during the referendum debate and are mainly concerned by two major factors: access to workforce and access to market.

According to a recent Seafish study (Curtis et al., 2018), 42 per cent of the workforce in the British seafood processing industry is of European Economic Area (EEA) origin, mainly eastern European countries, which may cause some issues to the sector if EEA low-skilled workers face more difficulties migrating for to the UK for work after Brexit as those jobs are not well regarded by the British workforce.

The EU is by far the largest market for the UK seafood sector, attracting most of the high value products caught by the UK fishing industry. Many of these species are almost unknown for British consumers. This trade essentially requires moving products very quickly from UK fishing ports to the various European markets, most of the time in 24 to 48 hours. Freshness and quality (which are linked) are the main drivers for prices, which make any bottleneck in the supply chain an important threat for the UK sector as delays would reduce the value of UK exports. UK processors are therefore advocating for tariff-free seafood trade with as few non-tariff barriers as possible, even if this means maintaining EU-27 access rights in UK waters.

### *The EU27 sectorial perspective*

Referring to the UN Convention on the Law of the Sea, which instructs states to respect the “traditional fishing rights” of ‘adjacent’ countries within sovereign waters, the EU-27 Member States which are most concerned (Ireland, Belgium, the Netherlands, Denmark, Germany, France, and Spain) are advocating maintenance of the status quo. Their general arguments are reinforced by the fact that within the EU, the 1964 London Convention on fisheries also recognises historical rights of access to the waters of the UK (as illustrated in Map 3). A very direct articulation of this EU-27 point of view from an industry agent was: *“The British claim of getting back your waters is nonsense, because you never had them. Maybe for oil or gas but not for fish”*<sup>6</sup>. Such a position is echoed in Brussels, where it is believed that Brexit should not change the allocation of fishing opportunities or result in an increase of the UK’s share of fishing opportunities<sup>7</sup>.

### ***The way forward: A new sharing of the resources?***

Upon exit from the EU, the UK fisheries sector is arguing for the UK to become an independent coastal state, disconnecting the UK’s EEZ from the EU-27’s EEZ. If that were the case, more than 100 fish stocks would be considered shared stocks between the UK and the EU-27, with some also shared with the Faroe Islands, Iceland and Norway. However, several provisions of International Law (notably the UN Convention on the Law of the Sea, UNCLOS, 1982) constrain the UK to cooperate on the management of shared stocks, notably in the establishment of a common management framework. The UK could not therefore set unilaterally its own catch limits (quotas) but would have to coordinate with other countries to establish a TAC (Total Allowable Catch) shared in national quotas. This would be consistent with the approach of bilateral and multi-lateral agreements already in place with Norway, the Faroe Islands and Iceland.

One of the main challenges in laying down this new framework will be to decide what initial allocation should be used to share the different fishing rights among the different nations. The British

fishing sector is advocating zonal attachment, while the EU-27 sector is supporting the status quo, arguing that historic fishing patterns should be respected. Zonal attachment may be difficult to implement in the short term as there is a need for both parties to agree on the exact level of catch achieved in the UK EEZ by all fishing nations. This is problematic because of the current nature of the UK EEZ border, which as seen in Map 2 is not aligned with the grid used by fishers to report their catch. Fishers report their catch in Northern European waters at the ICES rectangle level (a 30 nautical square mile area). If a rectangle overlaps an EEZ it can make the attribution of catch difficult. Moreover, zonal attachment could also integrate other dimensions such as spawning area, or where juvenile fish concentrate, which would significantly complicate the calculation of the initial allocation. In some cases, landings realized in British waters are derived from younger (and smaller) fish that have grown in EU-27 waters (e.g. herring in Denmark).

### ***International dimension of the Common Fishery Policy: what changes?***

In the context of Brexit, the international dimension of the CFP can be viewed from two angles: 1- what kinds of agreement may be brokered between the two entities, and 2- what existing agreements may be lost for British fishers?

Two types of international fishing agreements have been developed by the EU since the inception of the CFP:

- Sustainable Fisheries Partnership Agreements (**SFPAs**), where the EU gives financial and technical support in exchange for fishing rights, sometimes trading off access to resources versus access to the EU market, generally with African countries, but also with Greenland.
- Bilateral (Northern) agreements, where joint management of shared stocks has developed with Norway, Iceland and the Faroe Islands. Some of these agreements may also have begun as a market versus resource trade off.

It is expected that the UK, the EU and Northern countries would agree a set of new “Northern agreements”, although this will not happen overnight. This is not a simple process, as indicated in Box 1. There would be a need to define initial conditions of quota allocations, but also a framework for exchanging access rights and fishing quotas.

#### ***Box 1: An example of change for the UK fishing sector***

As an EU member state, the UK benefits from the Nordic agreements and from the Greenland SFPA. The Greenland SFPA consists of the exchange of access to fishing grounds (EU vessels fishing in Greenland waters) and access to the EU market for Greenland seafood products. Some of the fishing rights granted to the EU in this agreement are subsequently exchanged with Norway to allow EU

vessels to fish in the Barents Sea, notably on cod and haddock quotas. Combined with the Norway bilateral agreement, the UK receives a non-negligible share of the Barents Sea quota for cod and haddock each year (10,700 and 760 tons respectively in 2018, see Goulding and Szalaj, 2017). This existing arrangement will add complexity to the future negotiation UK and Norway will have to define the exchange of quotas and access rights to allow their respective fleets to operate across the UK/Norway EEZs.

**Concluding words:**

This article addressed the potential consequences of Brexit on the evolution of fishing opportunities within British waters. It shows that diverse points of views are currently on the table, corresponding to different but all relevant rationalities. There are different interests and impacts even within the UK fishing industry. This is mostly explained by the fact that UNCLOS does not provide clear guidance on the extent to which access to the waters of cooperating parties should be granted. However, the various points of views are clearly incompatible, and some decisions need to be taken during the negotiation process, noting that these decisions will also be affected by other trade-offs.

The role that fisheries play in the Brexit negotiation is unclear, but what is certain is that other industries are generally larger and worth more to the UK and other Member State economies, and thus their interests might ultimately have more influence on the trade agreement reached. Along with freedom of movement, fisheries access is in principle not trade-related. It is, however, particularly emotive, and at the core of the Brexit debate and the trade-offs faced.

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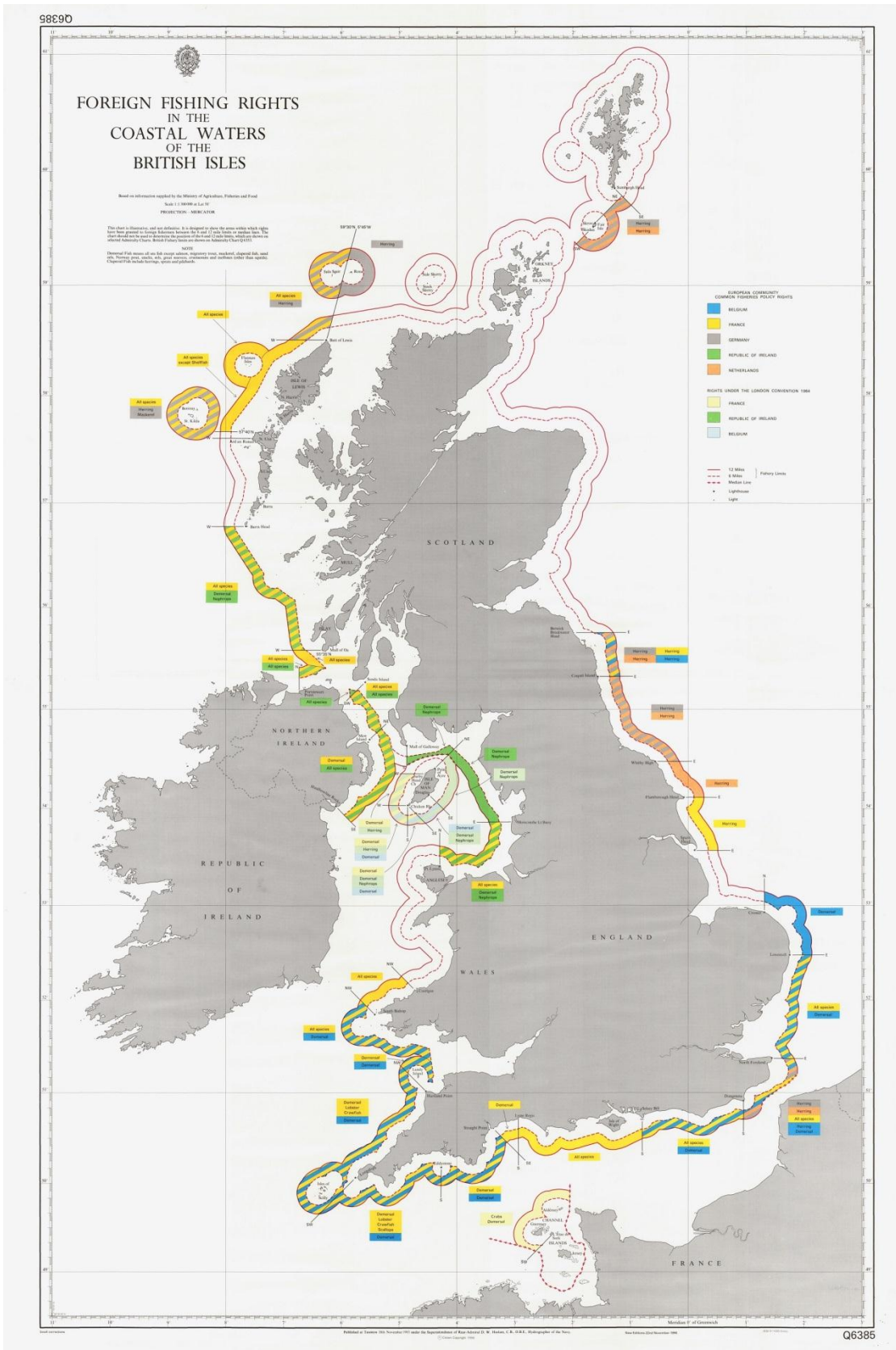
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Map 3: Foreign Fishing Rights in British coastal waters



Source: the 1964 London Convention

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<sup>1</sup> An earlier agreement —the London Fisheries Convention, that predates the UK’s accession to the EEC— allocated fishing rights within the 6 to 12 mile zone around the British coast.

<sup>2</sup> source: [Managing fisheries - https://ec.europa.eu/fisheries/cfp\\_en](https://ec.europa.eu/fisheries/cfp_en)

<sup>3</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/620838/Queens\\_speech\\_2017\\_background\\_notes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/620838/Queens_speech_2017_background_notes.pdf)

<sup>4</sup> <http://www.bbc.co.uk/news/uk-40471466>

<sup>5</sup> For further views of the UK fisheries associations and NGOS, see the verbatim record of the session of the Environment, Food and Rural Affairs committee of the UK parliament on Brexit and Fisheries: and <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/environment-food-and-rural-affairs-committee/fisheries/oral/74000.html>

<sup>6</sup> Niels Wichmann, chief executive of the Danish fishers’s association, quoted in <https://www.theguardian.com/politics/2017/apr/18/denmark-to-contest-uk-efforts-to-take-back-control-of-fisheries>

<sup>7</sup> <http://nffo.org.uk/news/the-european-parliament-and-the-future-of-fisheries.html>