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Maurits van Halderen, The allocation of fishing opportunities between the UK and the EU post-Brexit: learning from the Norwegian model ((June 2020)

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The Allocation of Fishing Opportunities Between the UK and the EU Post-Brexit: Learning from the Norwegian Model

List of abbreviations

CFP	=	Common Fisheries Policy
EEC	=	European Economic Community
EEZ	=	exclusive economic zone
EU	=	European Union
FQA	=	Fixed Quota Allocation
ICES	=	International Council for the Exploration of the Sea
SFPAs	=	sustainable fisheries partnership agreements
MS	=	Member State
MSY	=	Maximum Sustainable Yield
STECF	=	Scientific, Technical and Economic Committee for Fisheries
TAC	=	total allowable catches
UNCLOS	=	United Nations Convention on the Law of the Sea
UK	=	United Kingdom

Introduction

On March 29th, 2017, the British government informed the European Council of Ministers about its verdict to commence the procedures to leave the European Union (EU) by means of Article 50(3) of the Treaty on European Union (European Union, 2012). As a result of this long process, the United Kingdom (UK) has formally left the EU on the February 1st, 2020, and from that date onwards the UK is subject to a transition period which will last until December 31st, 2020. Consequently, EU law is officially no longer applicable to the UK, including the Common Fisheries Policy (CFP), which is one of five of the EU's external competences. Yet, the specific terms of Britain's withdrawal after the transition period from the EU, and its forthcoming management of fisheries, including the issue regarding the allocation of fishing opportunities between Britain and the EU, are still subjected to negotiations. Furthermore, the CFP has not received much admiration from the British fishing industry and its current government. This is mainly because of the public opinion which asserts that the CFP creates an imbalance of fishing opportunities (Forse, Drakeford & Potts, 2019; O'Callaghan, 2019). This imbalance is substantial, as according to the European Commission, EU member states' (MSs) landings from British waters total €585 million, whereas British landings from EU MSs' waters total €127 million (European Commission, 2018d). The UK is therefore fixated on the opportunity Brexit puts forward to rebalance the allocation of fishing opportunities within British waters (Phillipson & Symes, 2018).

This essay analyzes the allocation of fishing opportunities between the UK and the EU in light of the Brexit negotiations. Hence, it aims to answer the following research question: How does Brexit affect the allocation of fishing opportunities, and what would be a feasible solution for the future management of fishing opportunities between the UK and the EU? In order to properly answer this question, I will first give theoretical background on the necessity of policy learning. Then, I will briefly introduce the CFP and give a short historical timeline analysis. Furthermore, I will explain the context of Britain regarding the allocation of fishing opportunities prior to Brexit, after which I will set out the effects Brexit will have on it, by highlighting the different dimensions the problem brings along. Next, the conditions of the current Brexit Transition Period will be given, followed by how the EU-UK Fisheries Access Agreement ought to be approached. I will postulate that the current regulatory framework of Norway provides a valid blueprint for the future agreement by introducing a 'mutually satisfactory balance'. Broader political aspects regarding trade will be considered afterwards as well. Finally, I will end with a conclusion.

The necessity for policy learning

Essentially, policy learning regards implementing a framework of ideas into another context to prevent policy failure. Policymakers will try to actively prevent failure once they understand the policies in place are not reliable or fit for purpose. Nair and Howlett (2017) coined the term 'policy myopia', which refers to the complexity of anticipating the future far enough to thoroughly determine the general trajectory policies are taking, such that you can plan accordingly in the present. This relates well to Brexit because the results of the

negotiations and their effect in the long-term are still unsure (Huggins, Connolly, McAngus & Van Der Zwet, 2018). Thus, to avoid potential policy failure, it is crucial for the UK to maximise the chances for policy success by learning lessons from other cases. In this case, policy learning is initially voluntary, but stems from a recognised necessity propelled by Brexit's complexities (Huggins, et al., 2018).

Policy learning is connected to the long-established idea of policy transfer, which considers a variety of aspects, such as identifying the feasibility of transferring policies, and recognising both the 'giving' and 'receiving' context. Hence, the idea behind policy transfer is to realise what can be transferred, instead of using it as an 'all or nothing' approach (Huggins, et al., 2018; Dolowitz & Marsh, 2000). Looking abroad is advised by scholars, but in the context of the EU it is suggested that chances for policy learning and transfers are constrained due to a lack of cases to be emulated (Rose, 2005; Radaelli, 2000). However, with regards to fishing opportunities and Brexit this does not hold, as Norway is a non-EU coastal state of which the EEZ borders with Britain's. Additionally, Norway also cooperates with the EU to manage their fisheries. Hence, even though its fishing industry is constructed differently, Norway has a similar status to a post-Brexit UK (Huggins, et al., 2018). Thus, Britain can potentially learn from Norway how (not) to establish its post-Brexit fisheries policy.

The CFP and its general historical trajectory

The CFP is one of five of the EU's external competences. It covers a policy area which is established for the management of European fishing fleets and the conservation of fish stocks. The CFP is designed to manage a common resource, namely fish, by giving all European fishing fleets the same access to EU waters and fishing grounds (European Commission, n.d.).

When the treaty of Rome established the European Community in 1957, the CFP was initially part of the Common Agricultural Policy, but the CFP developed as a separate policy in 1970 at the request of France. It encompassed structural aid to modernise the fishing industry, as well as free access dedicated to fishing in other MSs' territorial waters, which later became exclusive economic zones (EEZs) after the United Nations Convention on the Law of the Sea (UNCLOS) was established (Kirkpatrick, 2020; UNCLOS, 1982). In 1983 regulations were expanded, adding the preservation and management of fisheries to the CFP, which then became central to the policy area. This addition introduced the regulation of total allowable catches (TACs) in certain areas, also known as the principle of 'relative stability', along with several other quotas. The European Council initiated the implementation of specific limits on catches and fishing licenses in 1992 (Lequesne 2000). As a response to the continuous diminishing of fish stocks, improvements regarding transparency and stakeholder involvement were commenced in 2002 (Kirkpatrick, 2020; Gray & Hatchard 2003).

2013 saw crucial developments of the CFP as it introduced the Maximum Sustainable Yield (MSY) and multiannual plans; these measures materialised in order to reduce bycatch (dumping caught fish that is unwanted or unauthorised overboard), as well as to make a slight shift towards regionalisation. If properly implemented, catches would be maximised while the fishery sector also achieves economic and social sustainability. Yet, these developments were conceived as short-term economic solutions instead of long-term sustainable solutions by some NGOs and MSs (Kirkpatrick, 2020). Criticism was aimed at the fact that the CFP still

supports unreasonable incentives, such as subsidies for ship assembly, as well as still maintaining too high quotas (Salomon, Markus & Dross, 2014; Pastoors, 2014). Furthermore, TACs often conflicted with the MSY objective, as fishing had to cease after the most constraining TAC quota was exhausted regardless of the MSY (Mardle & Metz, 2017). Certain scholars went as far to call the reforms a “massive environmental, economic, and social failure” (Sawe & Hultman, 2014, p. 508). However, several regulatory means are set into place to attain MSY, particularly concerning the allocation of fishing opportunities.

The CFP and its allocation of fishing opportunities regarding Britain prior to Brexit

Fisheries held a crucial role when Ireland, Denmark, and the UK negotiated accession to the European Economic Community (EEC) in 1973, as well as in Norway’s decision to abstain from joining. After the CFP became a separate policy in the 1970s, and the EEZs were defined under the UNCLOS, British EEZs were not formally specified (UNCLOS, 1982). Hence, in light of Brexit, it is necessary for the UK to determine its own EEZ in relation to the already existing EU EEZs (Appendix 1).

The implementation of EEZs caused a change in the basic principles of freedom of access, as it extended national rights to exclusive coastal fishing in territorial waters from 12 nautical miles to 200 nautical miles of the coast (Gallic et al., 2018). Furthermore, following the CFP, MSs concurred to cooperatively manage EEZ fish stocks, implying a hierarchy of accountabilities which still necessitated MSs to manage their own fleets in order to balance fishing efficiency with degrees of available resources (Gallic, et al., 2018). Consequently, the allocation of fishing opportunities is specified by two types of access regulation. Firstly, output regulations on the quantity of catches. Secondly, input regulations on the effort of fishing, comprising of spatiotemporal elements such as the amount of time offshore dedicated to a certain activity in a specific area. Regarding the output regulations, many fish stocks (which allow for their scientific evaluation) receive the aforementioned TACs. The proposals of such catch limits are prepared by the European Commission, which receives scientific advice on fish populations from advisory councils such as the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF). TACs are defined annually by the Ministers in the Council of Fisheries. For stocks which are shared and mutually managed by non-EU countries, TACs are decided collectively.

EU MSs share TACs by means of national quotas. Each stock receives a distinct allocation percentage per MS used for sharing out the TAC. This flat percentage is called the relative stability key, and each MS is responsible for distributing the share of each TAC to its own fishing vessels. In the UK this is managed by the Fixed Quota Allocation (FQA). However, a substantial amount of the FQA is currently allocated to British vessels who sail for corporations from other MSs. This ‘quota-hopping’ can reach up to 96% of the total of the British FQA for certain fish stocks in particular areas (Hatcher & Read, 2001; Gallic et al., 2018). Furthermore, according to the TAC, MSs can balance quotas when they deem this necessary by exchanging quotas with other MSs: the ‘quota-swap system’. The fishing opportunities regarding fish species which are not subjected to TAC management revolve around different and mostly complex policies. Some areas, such as the English Channel, can consist of up to 50% of such fish species unaccounted by TAC. In these instances, fishing

opportunities are mostly built on pre-existing policies before the CFP: the alleged ‘historical rights’ (Gallic et al., 2018).

Effects of British departure from the EU on fishing opportunities

On February 1st 2020, the UK left the EU. However, many negotiations and agreements about Brexit’s legal implications are yet to be finalised. The eventual outcome of Brexit will significantly affect the status quo of the allocation of fishing opportunities within and around British waters. Hence, both British and other MSs registered fishing fleets will experience substantial changes. The UK will be a third State and cease to be subjected to EU law. Hence, if there is no agreement to the contrary, the CFP and its establishment of equal access and TACs will not apply to Britain anymore (Schatz, 2020). Essentially, this should not impinge on the application of the in 1964 established London Fisheries Convention (LFC), as it holds a valid legal bases for fishing opportunities within 12 nautical miles in public international law (thus not EU law). However, Britain has announced to withdraw from the LFC in July 2017 and will thus need to seek an alternative (Holland, 2017). Furthermore, the 2018 UK Fisheries Bill invalidates both equal access by EU fishing vessels to Britain’s EEZ, as well as the revocation of fishing opportunities priorly allowed by an abundance of fish stock (principle of relative stability) (Schatz, 2020). In April 2018, the European Commission declared in an announcement to stakeholders that accessing EU waters by British vessels and vice versa will no longer be automatically authorised, as is described in EU Regulation 2017/2403 (European Parliament and Council, 2017). Similarly, the British government highlighted in a ‘Guidance’ statement in March 2019 that from January 1st 2020 “Non-UK vessels, including EU or EEA registered vessels, will not be permitted to fish in UK waters, unless there is an access agreement” (Department for Environment, Food & Rural Affairs, 2019, §3) and vice versa.

The eventual British withdrawal from the CFP also implies the necessity to reallocate its existing share of fishing opportunities amongst the other EU MSs. The current system’s redistribution after Brexit would be based on relative stability. Furthermore, until the end of the transition period the management of fisheries opportunities will adhere to existing CFP regulations, as described in the following sections (Schatz, 2020; Marine Management Organisation, 2020).

Considering the dimensions of the problem

For the UK to take control of its EEZ will not wipe the slate clean. The British fishing industry will still be guided by scientifically grounded recommendations by ICES, which concern the managing of common fish resources (output) in European waters such as the “North Sea, Irish Sea, NW and SW waters which the UK exploits in common with EU Member States (mainly issued in the form of recommended annual TACs)” (Phillipson & Symes, 2018, p. 169). Post-Brexit UK will also still have to maintain precautionary restraints with regards to fishing effort (input), in order to sustain fish stocks in the long-term. Moreover, the aforementioned UNCLOS which formally recognized EEZs, permits coastal states certain rights, responsibilities, and obligations regarding the management of resources and allocation of fishing opportunities within EEZs (UNCLOS, 1982).

These responsibilities and obligations create a number of issues for Brexit which ought to be resolved through negotiating. Brexit's outcome will have significant implications for forthcoming governance of the fishing industry. These implications will depend on how adamant Britain will remain on pressing for the rebalancing the distribution of TACs and the limiting of foreign access in British waters, as well as to what extent the MSs will concede to this. There are four main issues, namely coastal state capabilities, new estimates of TACs, determining access arrangements, and new terms of trade (Phillipson & Symes, 2018).

Coastal state capabilities: Brexit negotiations should tackle issues regarding the capabilities of the fishing industry to manage any rise in fishing opportunities. Past downsizing of the fishing industry has had a strong reduction effect on "harvesting capacity, markets, available skill sets, labour and local environmental knowledge" (Phillipson & Symes, 2018, p. 169). Furthermore, more young people have moved away from the fishing industry as a means of long-term employment. Hence, fishing vessels are manned for a substantial part by foreign expatriates. Moreover, national and local administrative agencies ought to be considered as well, due to their increase in responsibilities.

New estimates of TACs: Important factors are the large amount of shared stocks and the British catching sector's disapproval for relative stability based on historical fishing activity from the late 1970s, which left the UK with lower TAC fixed shares for important commercial fisheries in its waters comparable to its share of over 60% of the EC9's fishing zone. Although the UK's preference goes to zonal attachment (Ramsden, 2020), the current catch data may not be enough as many species caught in the British EEZ are migratory from EU waters. Furthermore, the uneven geography of the UK's EEZ poses a complication due to species-mix, historic access agreements, and diverse interested parties (Phillipson & Symes, 2018). Thus, recalculating a mutually satisfactory TAC that is aligned to the British and EU EEZs will pose challenges.

Determining access arrangements: It is unlikely that the UK would exclude all EU vessels from its EEZ as it will trigger a similar response from the EU. However, EU vessels with fishing access rights in the UK's EEZ will operate under UK regulations. The issue of access is based on two elements: firstly, the UK's plan of withdrawing from the LFC will impede some EU states. Secondly, the degree to which Member States will be allowed access to British customary fishing grounds in light of Article 62 of UNCLOS will pose a problem (UNCLOS, 1982). The British fishing industry insists on a major reallocation of fishing stocks within the EEZ; which could cause all neighbouring EU coastal states to suffer extreme consequences (Napier, 2017). An additional problem concerns the aforementioned 'quota-hopping' by British 'flag vessels'. This results in a substantial share of British quota claims are foreign-owned; this imbalance is not the result of the CFP but from the UK's idiosyncratic quota management method that favours transferable fishing rights and British owners who sell their vessels to the highest bidder (Phillipson & Symes, 2018). Solving this issue demands a mutually satisfactory balance as determining access arrangements could turn antagonistic.

New terms of trade: The UK exports most of its catches, yet imports most of the fish for consumption. While the EU supplies a third of UK imports by volume, most of the imports come from Norway, Iceland, and Canada, hence from outside the EU. Contrarily, seven of the top ten export locations for British seafood are within the EU (Seafish, 2017; Phillipson & Symes, 2018). As a result, most of the occurring trade falls within the European single

market, meaning no tariff expenses for the industry or for third states with EU preferential trade relations (Phillipson & Symes, 2018). Yet, the UK's withdrawal from the single market has reduced the probability of obtaining tariff free access for its exports and imports post-Brexit. Furthermore, the significance of sustaining competitive and comparable market access to raw materials, standards, and regulations to maintain food quality for the sake of consumers is emphasised by seafood processors (Phillipson & Symes, 2018). Thus, the ability of supply chains, consumption patterns, and market access to adapt and accommodate new market opportunities post-Brexit raises issues.

Conditions of the current Brexit Transition Period

The Brexit Transition Period is in effect until 31 December 2020. Three Draft Withdrawal Agreements were negotiated between the UK and the EU in February, March, and November of 2018 (European Commission, 2018a; 2018b; 2018c). These negotiations signalled possible regulation of future law (*de lege ferenda*), despite the fact that absolute EEZ fisheries access rights no longer remain under existing treaty law and customary international law between the UK and EU MSs after Brexit. The Third Draft Withdrawal Agreement paved the way for the transition period that started after Brexit February 1st, 2020 and lasts until December 31st, 2020 (European Commission, 2018c). During this transition period, the UK must be “consulted in respect of the fishing opportunities related to the United Kingdom” (European Commission, 2018c, p. 206) as EU law would remain applicable to the UK with specific exceptions (European Commission, 2018c, p. 196). The CFP is not defined as such an exception, and therefore still applies. The requirement to consult the UK acts as a “safeguard”, to quote the UK's Secretary of State for leaving the EU (Department for Exiting the European Union, 2018, § 4). However, a closer look at the description of the obligation reveals that it does not oblige the EU to fulfil the interests communicated by the UK during these consultations; in other words, the nature of the obligation is purely procedural (European Commission, 2018c, p. 206; p. 222). This shows a major shortcoming regarding the UK's draft text of February 21st, 2018 which emphasises that “the EU and the [UK] shall agree the fishing opportunities” (Government of the United Kingdom, 2018, p. 8), hence stating that the allocation of fishing opportunities would have been dependent on the UK's approval.

The Third Draft Withdrawal Agreement presents with regards to the fishing opportunities that “the relative stability keys for the allocation of fishing opportunities [...] shall be maintained” (European Commission, 2018c, p. 2017) with the absence of any predisposition which obliges to consult the UK. The Second Draft Withdrawal Agreement housing identical principles was greeted with positive appraisal from EU fisheries advocacy groups, whereas it received negative commentary from politicians and stakeholders in the UK (Schatz, 2020). Thus, the bulk of the Third Draft Withdrawal Agreement's purpose would be to maintain the legal status quo under the CFP concerning fisheries access until 2021. Considering that the UK's initial plan of action to promptly retrieve their total control over access to fisheries in British waters fell under extreme objection from other EU MSs, plus EU access to UK waters had been prolonged by the influence of EU market access, it does not come out from the blue that the Third Draft Withdrawal Agreement majorly departs from the UK's original intentions. According to the British government, the provisional continuation to the relative stability key

is currently included in “protecting the interests of the UK fishing community” (Schatz, 2020, p. 153) to prevent even worse transitional agreements.

If the transition period ends on December 31st, 2020, the transitional fisheries access arrangements will only be valid for the year of 2020. From 2021 onwards, if a new fisheries agreement is non-existent, EU Member States’ fisheries access to the EEZ of the UK and vice versa will be fully controlled by shared international fisheries law (thus not EU law) (Schatz, 2020). Yet, the possibility of an extension of the transition period remains due to the slow advancement in negotiations, at least regarding fisheries.

Approaching the EU-UK Fisheries Access Agreement

The fisheries access relationship between the UK and the EU in the future will have to be created through the negotiation of a new regional structure. While it is likely that some sections on fisheries and its related counterparts in especially trade law will be integrated into a future trade agreement between Britain and the EU, it is however improbable that the agreement will include explicit provisions on fisheries access. In place of this, an abundance of precedent exists of separate fisheries access agreements and both the MSs and the UK seem to reach for such a resolution (Schatz, 2020; Huggins, et al., 2018). This is affirmed by the Draft Political Declaration, adopted in November 2019 by the EU and the UK, which expresses that “the Parties should establish a new fisheries agreement on, inter alia, access to waters and quota shares” and that “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” (Council of the European Union, 2018, p. 19).

In the past decade alone, the EU has concluded numerous fisheries access agreements with many different countries worldwide. Such agreements can be applied by the UK for policy learning, and are classified into two categories; the first being sustainable fisheries partnership agreements (SFPAs), and the second being northern agreements. In SFPAs, mostly developing states give the EU fishing industry access to their territorial waters for the sake of receiving financial and technical aid from the EU. In this detail, the SFPA between the EU and Greenland is an exception of a North Atlantic SFPA (Zimmermann, 2017). In northern agreements, there is a relationship with the North-East Atlantic states the Faroe Islands, Norway, and Iceland for the co-operative supervision of trans-boundary stocks (Huggins, et al., 2018).

Utilising the EU-Norway framework

The ensuing analysis will focus on the Northern agreements’ usefulness as a blueprint for the EU/UK fisheries access agreement. Norway is the EU’s main partner in both fisheries access and management of shared fish stocks (European Commission, n.d.). This analysis will be based on the presupposition that the fisheries access relations between the EU and the UK in the future will most likely resemble that of the EU and Norway due to the substantial number of shared stocks and mutual fisheries access (Churchill & Owen, 2010); yet, the fact that the EU shares over ten times as much fish stocks with the UK than with Norway should not be

forgotten (Schatz, 2020). Therefore, the EU's potential fisheries access agreement with the UK will become more important than the one it has with Norway. Moreover, the degree to which the numbers of shared stocks differ in addition to the present intricacies of regional arrangements contribute to the difficulty of making a comparison between the two. Furthermore, a new kind of modern fisheries agreement that comprises modern management standards will presumably be the UK and the EU's objective.

Regardless, the case of Norway can be utilised. The 1980 Agreement on Fisheries between the European Economic Community (EEC) and the Kingdom of Norway (EU-Norway Framework Agreement), established the foundation and objectives for fisheries access between the two (European Union, 1980; Churchill & Owen, 2010). Additionally, other regional fisheries access agreements smaller in size and less economically significant are in place: firstly, the EU-Norway Arrangement for the North Sea and the Atlantic Ocean; secondly, the EU-Norway Trilateral Agreement, which regards the Kattegat and Skagerrak (Denmark, Sweden, and Norway); and thirdly, the EU-Norway Neighbourhood Arrangement, which encompasses Swedish fishery in Norwegian waters of the North Sea (Schatz, 2020). In reality, these agreements are administered as a result of fisheries congresses that occur annually. In the current post-Brexit era, the British government has suggested a similar method of annual negotiations (Department for Environment, Food & Rural Affairs, 2018; Schatz, 2020).

As mentioned previously, particular traits of the EU-Norway Framework Agreement can arguably be seen as an appropriate example for future fisheries access framework agreement between the EU and the UK as it allows for mutual access within the respective EEZs (Churchill & Owen, 2010). Each party is required to dictate the TAC for particular fish stocks or compositions of stocks in its waters and to distribute fishing opportunities to the other party (European Union, 1980). Furthermore, the "scientific evidence available to it, the interdependence of stocks, the work of appropriate international organizations and other relevant factors" (European Union, 1980, p. 1) must be noted when the TAC is decided. ICES holds a crucial position in facilitating the agreement as it supplies scientific advice that may be useful when determining the TAC (Department for Environment, Food & Rural Affairs, 2018). The EU-Norway Framework Agreement ought to "undertake to cooperate to ensure proper management and conservation" (European Union, 1980, p. 2) regarding stocks which need cooperative management, especially those shared between Denmark, Sweden, and Norway. In reality, the EU and Norway dismisses this commitment by settling on the TAC for these stocks every year. For the potential EU-UK agreement this absence of specific binding agreements on the allocation of fishing opportunities may be undesirable for individual MSs attempting to protect current EEZ fisheries access.

The allocation of fishing opportunities between Norway and the EU is the next stage. Relative stability is not the essence of fishing opportunity allocations between the EU and Norway, but rather "the objective of establishing a mutually satisfactory balance in their reciprocal fisheries relations" (Churchill & Owen, 2010, p. 333) in respect of value, not catches (European Union, 1980, p. 1). Allocation should be based on an equilibrium which is of mutual satisfaction; both parties must "take into account the character and volume of the other Party's fishing in its area of fisheries jurisdiction, bearing in mind habitual catches, fishing patterns and other relevant factors" (European Union, 1980, p. 2). These aspects anticipate for reasonable versatility in the allocation of fishing opportunities spread over a

period. The goal of introducing a mutually satisfactory balance, in contrast to the principle of relative stability, is not shaped by fixed shares of past fishing activity, but predominantly on the degree of availability of Norwegian fisheries access in European waters, along with extra factors such as habitual fishing activity (Schatz, 2020; Churchill & Owen, 2010).

Introducing a mutually satisfactory balance for cooperatively managed stocks implies that the TAC is split into EU-Norway fishing opportunities built upon zonal attachment determined by the parties (Churchill & Owen, 2010). Whereas for other stocks, each party must annually scrutinise the other party's TAC and negotiate on the eventual allocations (European Union, 1980). As for licenses, the coastal state directly issues them when the other party has conveyed their list of vessels (European Union, 1980). Thus, the EU could not persist in its demand for allocation based on relative stability rather than zonal attachment in its cooperation with the UK if the EU-Norway Framework Agreement is to operate as a blueprint (Schatz, 2020). As a matter of fact, it can be argued that the most disputable issue in these negotiations is whether future allocation will be based on relative stability (akin to the CFP) or on zonal attachment (akin to the EU-Norway Framework Agreement). Even so, the precise results of these negotiations are politically decided, not legally, hence implying large political prudence during UK-EU talks.

Furthermore, the step by step decline of EU fishing effort in the Norwegian EEZ to fulfil the goal of a mutually satisfactory balance was another key component of the EU-Norway Framework Agreement. The idea was to "effect a gradual reduction" to cause "changes in the Community [EU] fishing activity in Norwegian waters" (European Union, 1980, p. 2). With respect to the UK's resolution to lessen EU fishing activity in the British EEZ, a comparable system could be negotiated in the EU-UK fisheries access framework agreement. An approach of this nature shall successfully adhere to the conditions of abovementioned Article 62 of UNCLOS as well.

Lastly, The EU-Norway fisheries access relations ultimately demonstrates that regional agreements, such as the EU-Norway Trilateral Agreement, can possibly be utilised for sectors demanding solid cooperation, an example being the Irish Sea. These supplementary regional agreements can be distinct in nature contingent upon the context of the EU-UK fisheries access framework agreement, or be immediately included in the access agreement for the purpose of guaranteeing uniformity (Schatz, 2020).

The trade dynamic between market access and fisheries access

The EU-Norway Framework Agreement discussed above remains somewhat segregated within the international legal scope. However, without considering political aspects more broadly, an analysis of fisheries access is ineffective. Key is the future trade relations between the UK and the EU concerning fishery goods, especially concerning tariffs (Phillipson & Symes, 2018). As mentioned above, the UK exports a large amount of fishery goods to the EU (Seafish, 2017; Phillipson & Symes, 2018). Consequently, a rise in tariffs post-Brexit casts disastrous effects on the British fishing industry which can to a certain degree solely be tackled by quota increases for chunks of the industry. Additionally, non-tariff trade barriers, "such as rules of origin, sanitary and phytosanitary certification and checks, technical import requirements, and catch certificates, are very low" (Schatz, 2020, p. 160). Yet, non-tariff trade

barriers for the UK to the EU market are implausible. Norway does not enjoy it either, and had to authorise further fisheries access to the EU to gain its current preferential tariffs (Churchill & Owen, 2010). Likewise, the issue of preferential tariffs was very much associated with the question of maintaining fisheries access to the EU when Greenland withdrew from the EU in 1985 (Johansen, 1992). Thus, it is plausible that market access for fishery goods will depend on whether fisheries access will be provided to the EU in reciprocity. Hence, it is no wonder that the UK continues to assert that trade negotiations are to be negotiated separately from fishing opportunities and access; the latter, the UK emphasises, will be considered mainly following general international fishing agreements (Department for Environment, Food & Rural Affairs, 2018). Furthermore, The EU's interests seem to be described in the Draft Political Declaration which places the anticipated EU-UK fisheries access agreement amongst the general context of economic cooperation, hence linking the agenda issues under one umbrella (European Commission, 2018e). Moreover, Article 6 of the Third Draft Withdrawal Agreement expresses this in even more plain terms; it disbars particular fishery goods from the single customs area of Northern Ireland except if by the end of the transition period a fisheries access agreement between the EU and the UK is successfully negotiated (European Commission, 2018c).

Conclusion

In this paper I have explained the current applicable regulatory framework for fishing opportunities under the CFP in light of Brexit. The CFP EEZ access regime will continue to apply on the bases of arrangements during Brexit's transition period to prevent a legal deficit. Therefore, until December 31st 2020, the allocation of fishing opportunities among Britain and the EU are still based on the principles of relative stability and equal access (Schatz, 2020). If the transition period will not be extended, from 2021 and beyond the CFP EEZ access regime ceases to apply, and shared international law will be providing the leading framework for EEZ fisheries access among Britain and the EU. Thus, under article 62 of UNCLOS, when surpluses of the TAC are present, other states are ought to be granted access in the respective EEZ (UNCLOS, 1982). Yet, both the EU and Britain can themselves determine to which states' fleets access will be granted. My suggested solution to the considered requirements, while taking into account that the UK will claim most of the fisheries for British industry, is to gradually establish a mutually satisfactory balance of fishing activity as it will avoid abrupt disturbances of the respective fishing industries (Schatz, 2020; House of Commons, 2018).

As acknowledged by both sides, a new fisheries access agreement should be established post-Brexit in order to fulfil the aforementioned requirements for access to and cooperation in trans-boundary fish stocks among the UK and EU EEZs, as it will prevent damage to the industry and local communities (Schatz, 2020). However, the specific terms on the structure for the allocation of fishing opportunities are still subjected to negotiations. With this in mind, though not a perfect blueprint in all aspects, I have explained that through the theory of policy learning, the EU-Norway Framework Agreement can serve as an initial fundamental structure for the imminent fisheries access framework agreement between the EU and UK. This framework is particularly useful for managing shared fish stocks, as well as for attaining a mutually satisfactory balance of fishing activity by means of a gradual reduction of EU

fishing efforts. Furthermore, I have underlined the necessity of including the broader political dimensions of fisheries and market access during negotiations. Thus, the agreement on new principles regarding the allocation of fishing opportunities and access between Britain and the EU ought to be considered on the broader interrelated economic sphere.

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Appendix A – “ICES fisheries management zones and pre-and post-Brexit fishery jurisdiction in the Northeast Atlantic” (Goulding & Szalaj, 2017, p. 2)