



Northern Ireland  
Assembly

## Research and Information Service Briefing Paper

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# UK Fisheries Bill 2019-20

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## 1 Introduction

This briefing paper provides an overview of the key elements of the UK Fisheries Bill 2020. The paper focusses on the Northern Ireland specific components of the Bill, some of which are unique to here, but also covers those wider UK elements which require legislative consent from the Northern Ireland Assembly.

Due to both the complexity of the Bill and the limited time for scrutiny, this briefing paper is not as comprehensive a product as RaISe would normally produce, but the emphasis is on seeking to highlight the potential impacts for Northern Ireland.

It is recommended that this paper should also be considered in conjunction the [House of Lords Library Briefing Paper](#) on the Bill which was published on the 6<sup>th</sup> February 2020.

It should also be noted that this briefing paper covers the Bill as introduced on 29th January 2020 and as such does not cover any potential amendments that may be made to the Bill as it transits the legislative process within the Houses of Parliament

## 2 Key points

- The Fisheries Bill was introduced in the House of Lords on the 29th January 2020. This Bill is effectively a successor Bill, as the preceding Agriculture Bill 2017-19 failed to complete the parliamentary process prior to dissolution of the previous Parliament in October 2019;
- In basic terms the 2019-20 Fisheries Bill is designed to provide a legislative framework for fishing across the UK outside the EU and its Common Fisheries Policy;
- Fishing boats from Northern Ireland can and do fish throughout EU waters at present, providing they have quota to do so. The Northern Irish fleet predominantly operates within ICES divisions VIIa and VIa;
- The EU's Common Fisheries Policy has had a significant impact on the local sea fishing sector;
- In overall Northern Ireland terms the sea fishing sector is relatively small but is significant for the economy of the three County Down villages where the local fleet is mainly based;
- As a result of EU rules under the CFP and the local fishing fleet is predominantly but not exclusively focussed on the catching of prawns;
- The available evidence suggests that there are a number of fish species within the ICES VII and VIIa areas, which are the main focus of the local fleet, that are not being fished sustainably at present;
- The value of landings outside Northern Ireland is greater than local landings in relation to pelagic and shellfish species and this could present challenges post transition, particularly if there are additional checks or tariffs for movement of goods;
- The local fish processing sector, whilst small, makes a significant contribution to the areas in which it is based, but is heavily reliant on accessing markets outside Northern Ireland. In this regard additional checks or tariffs for goods leaving Northern Ireland could present challenges;
- Access to migrant labour appears to be greater need for the local catching rather than processing sector, but any changes to the levels of existing provision could adversely affect either sector;
- In effect, the Assembly's legislative consent is being sought for a Bill and powers within it which may be subject to significant change/restriction due to the potential outcome of negotiations for a future UK-EU Agreement on Fisheries;
- Notable areas of potential disagreement include the EU demand for existing reciprocal access agreements to continue, driven by the CFP, whilst the UK is more

focused on emphasising its position as an independent coastal state and achieving a deal which is more similar to the EU's Fisheries Agreement with Norway;

- The European Maritime Fisheries Fund (EMFF) has been a key part of the EU's Common Fisheries Policy, and as such was designed to support maritime and fisheries activity and help deliver the objectives of the Common Fisheries Policy (CFP). A replacement UK scheme is proposed but there are questions around how it will operate;
- The Ireland/Northern Ireland Protocol is a key component of the Withdrawal Agreement negotiated between the UK and EU in October 2019. Amongst other things, the Protocol effectively binds Northern Ireland to a series of EU regulations as they relate to a range of goods, with fish products being an integral element. Questions remain as to whether proposed provisions within the Fisheries Bill, whether they are UK wide or Northern Ireland specific, have been tested to see if they are compliant with the Ireland/Northern Ireland Protocol;
- The absence of any provisions for the issue of migrant labour within the Bill could appear to be an oversight, particularly given the UK Government announcement on the 19th February 2020 to pursue a points-based immigration system from the 1st January 2021, which will put an emphasis on 'skills';
- An ongoing dispute over the ownership of Lough Foyle between Ireland and the UK continues to present challenges for the sustainable development of aquaculture on the Lough. Could the resolution of this issue be part of the wider UK/EU fisheries agreements negotiations?
- North-south co-operation on fisheries access and management predated both the UK and Ireland's membership of the EU, through the form of the so-called Voisinage Agreement. This informal agreement enabled reciprocal access to fish in the 0–6 nautical mile zone of each other's territorial waters. Can this arrangement continue with or without a UK/EU fisheries agreement or wider trade deal?
- Specific clauses within the Bill that could present challenges within Northern Ireland include:
  - Clauses 1-3 (Fisheries objectives and joint fisheries statements and fisheries management plans);
  - Clauses 2-5 – Joint Fisheries statement (JFS);
  - Clauses 12-13 - Access to British Fisheries and regulation of foreign fishing boats;
  - Clauses 14-18 - Licensing of fishing boats;
  - Clauses 23-27 - Fishing opportunities; and
  - Clauses 28 – 32 - Discard prevention charging schemes.

### 3 Background to the Bill

The Fisheries Bill was introduced in the House of Lords on the 29th January 2020. This Bill is effectively a successor Bill, as the preceding Fisheries Bill 2017-19 failed to complete the parliamentary process prior to dissolution of the previous Parliament in October 2019.

In basic terms the 2019-20 Fisheries Bill is designed to provide a legislative framework for fishing across the UK. The need for this new legislative framework is driven by the UK's decision to leave the EU, which came into effect on the 31st January 2020. It should be noted that the Bill deals with issues including:

- Fisheries objectives, statements and management plans;
- Access issues for both British and foreign fishing boats;
- Fishing boat licensing;
- Fishing opportunities; and
- Discards prevention charging.

The EU's Common Fisheries Policy (CFP) has been the main policy mechanism impacting upon the sea fishing industry within Northern Ireland since 1983. This fact is significant as this has meant that despite fisheries being a devolved power, the UK as a whole has effectively adhered to a common approach to the management and exploitation of fisheries as defined by the CFP.

Whilst the UK has now formally left the EU it should be noted that the provisions within the CFP continue to take effect within the so-called transition period, which is scheduled to end by the end of 2020. Accordingly, the provisions within the Bill are likely to take effect from 2021 onwards, providing the transition period is not extended.

### 4 Background to the sea fisheries and aquaculture sectors in Northern Ireland

#### 4.1 Key terminology

Table 1 below sets out some of the key terminology that is central to the operation of the sea fisheries and aquaculture sectors within Northern Ireland. The information in this table is provided by way of context.

Table 1: Key terminology with regards to fisheries

Term	Summary
EU Common Fisheries Policy (CFP)	<ul style="list-style-type: none"> <li>• Established in 1983;</li> <li>• EU's key mechanism for the management of fisheries – general principle that all members should have equal access to the waters of all member states;</li> <li>• In 2002 the CFP underwent a significant reform with the aim of ensuring the sustainable development of fishing across the EU taking account of the environmental, economic and social impacts of the industry.</li> <li>• The 2002 reforms also brought to the fore the need for reliable and independent scientific advice and evidence when decisions were being made around the setting of fishing quota and the management of fish stocks.</li> <li>• Further reform in 2013 saw the adoption of a ban of discards – in effect since 2015, and a legally binding commitment to fishing at sustainable levels (the Maximum Sustainable Yield where possible from 2015 and everywhere by 2020).</li> </ul>
Total Allowable Catch (TAC)	<ul style="list-style-type: none"> <li>• Total allowable catches (TACs) or fishing opportunities, are catch limits (expressed in tonnes or numbers) that are set for most commercial fish stocks.</li> <li>• The European Commission prepares the proposals, based on scientific advice on the stock status from advisory bodies such as ICES.</li> <li>• TACs were generally agreed at the EU Council of Ministers meeting held in December each year</li> <li>• TACs are set for ICES areas and subdivisions – see figure 1.</li> </ul>
Quotas	<ul style="list-style-type: none"> <li>• TACs for a particular fish stock are shared between EU countries in the form of national quotas.</li> <li>• The percentage share for each Member State was agreed by Member States when quotas were first introduced for the fish stocks concerned, and the share-out between Member States stays the same each year. This share of quota is known as the “relative stability” share that each Member State receives.</li> </ul>
The International Council for the Exploration of the Sea (ICES)	<ul style="list-style-type: none"> <li>• Is an intergovernmental body founded in 1902 to conduct and coordinate research into the marine ecosystems of the North Atlantic.</li> <li>• ICES provides advice to a number of governments and regional fisheries management organisations, including the EU. It publishes Popular Advice by fish species and by region (see figure 1) on its website.</li> <li>• The ICES Areas have become the spatial unit by which TACs are allocated under the EU's CFP.</li> </ul>
Discards	<ul style="list-style-type: none"> <li>• Discarding is the practice of returning unwanted catches to the sea, either dead or alive, because they are undersized, due to market demand, the fisherman has no quota or because catch composition rules impose this.</li> </ul>
Bycatch	<ul style="list-style-type: none"> <li>• The unintended capture of a non target species.</li> <li>• Bycatch can often end up as discards.</li> </ul>
Technical measures	<ul style="list-style-type: none"> <li>• Broad set of rules which govern how, where and when fishermen may fish. This is a key component of CFP and can include: <ul style="list-style-type: none"> <li>❖ minimum landing sizes and minimum conservation sizes;</li> <li>❖ specifications for design and use of gears;</li> <li>❖ minimum mesh sizes for nets;</li> <li>❖ requirement of selective gears to reduce unwanted catches;</li> <li>❖ closed areas and seasons;</li> <li>❖ limitations on by-catches (catches of unwanted or non-target species);</li> <li>❖ measures to minimize the impact of fishing on the marine ecosystem and environment.</li> </ul> </li> </ul>

Term	Summary
Maximum Sustainable Yield (MSY)	<ul style="list-style-type: none"> <li>Fishing at MSY levels means catching the maximum proportion of a fish stock, that can safely be removed from the stock while, at the same time, maintaining its capacity to produce maximum sustainable returns, in the long term<sup>1</sup>.</li> </ul>
Exclusive Economic Zone (EEZ)	<ul style="list-style-type: none"> <li>An Exclusive Economic Zone (EEZ) is a concept adopted at the Third United Nations Conference on the Law of the Sea (1982), whereby a coastal State assumes jurisdiction over the exploration and exploitation of marine resources in its adjacent section of the continental shelf, taken to be a band extending 200 miles from the shore<sup>2</sup>.</li> </ul>
Pelagic	<ul style="list-style-type: none"> <li>Fish that live in the mid water.</li> <li>Species include herring, mackerel, tuna and salmon.</li> </ul>
Demersal	<ul style="list-style-type: none"> <li>Fish that live on or near the bottom of the sea.</li> <li>Species include sole, plaice, cod, haddock and whiting.</li> </ul>
Shellfish	<ul style="list-style-type: none"> <li>Water dwelling animals with an exoskeleton.</li> <li>Divided into crustaceans and molluscs.</li> <li>Crustacean species include crabs, lobster, shrimp and nephrops/Norway lobster.</li> <li>Mollusc species include scallops, mussels and cockles.</li> </ul>
FMSY	<ul style="list-style-type: none"> <li>Fishing Mortality at Maximum Sustainable Yield (FMSY). Biomass corresponding to Maximum Sustainable Yield based on a stock assessment.</li> <li>Often used as a biological reference point in fisheries management, it is the calculated long-term average biomass value expected if fishing at FMSY. See Reference points for Biomass and Fishing Mortality, Maximum Sustainable Yield.</li> </ul>

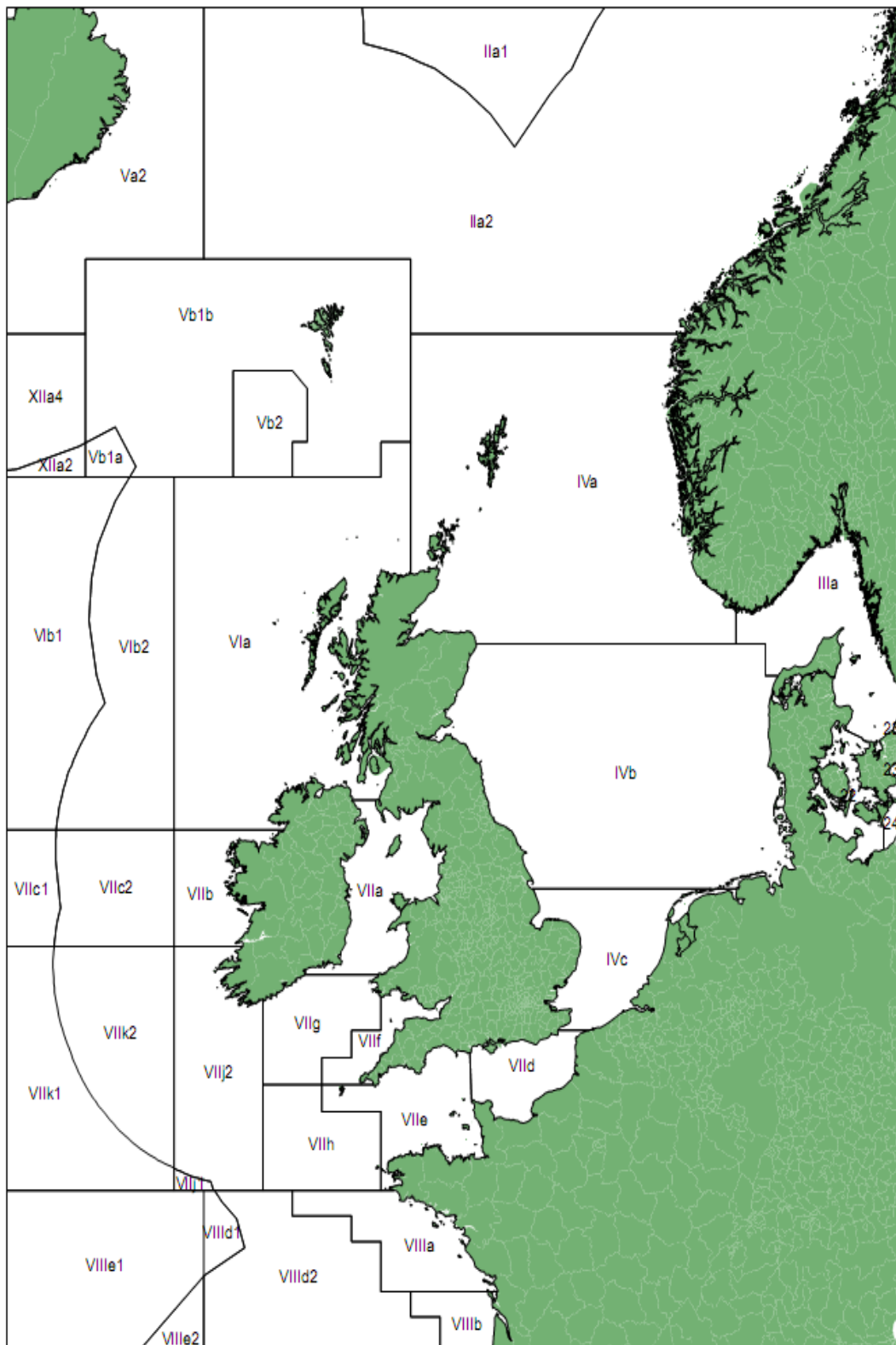
## 4.2 Fishing areas

Fishing boats from Northern Ireland can and do fish throughout EU waters at present, providing they have quota to do so. The Northern Irish fleet predominantly operates within divisions VIIa and VIa (see figure 1 below).

<sup>1</sup> [Questions and Answers on Maximum Sustainable Yield, European Commission memo, 5 July 2006](#)

<sup>2</sup> [Glossary of statistical terms, OECD website, 3 March 2020](#)

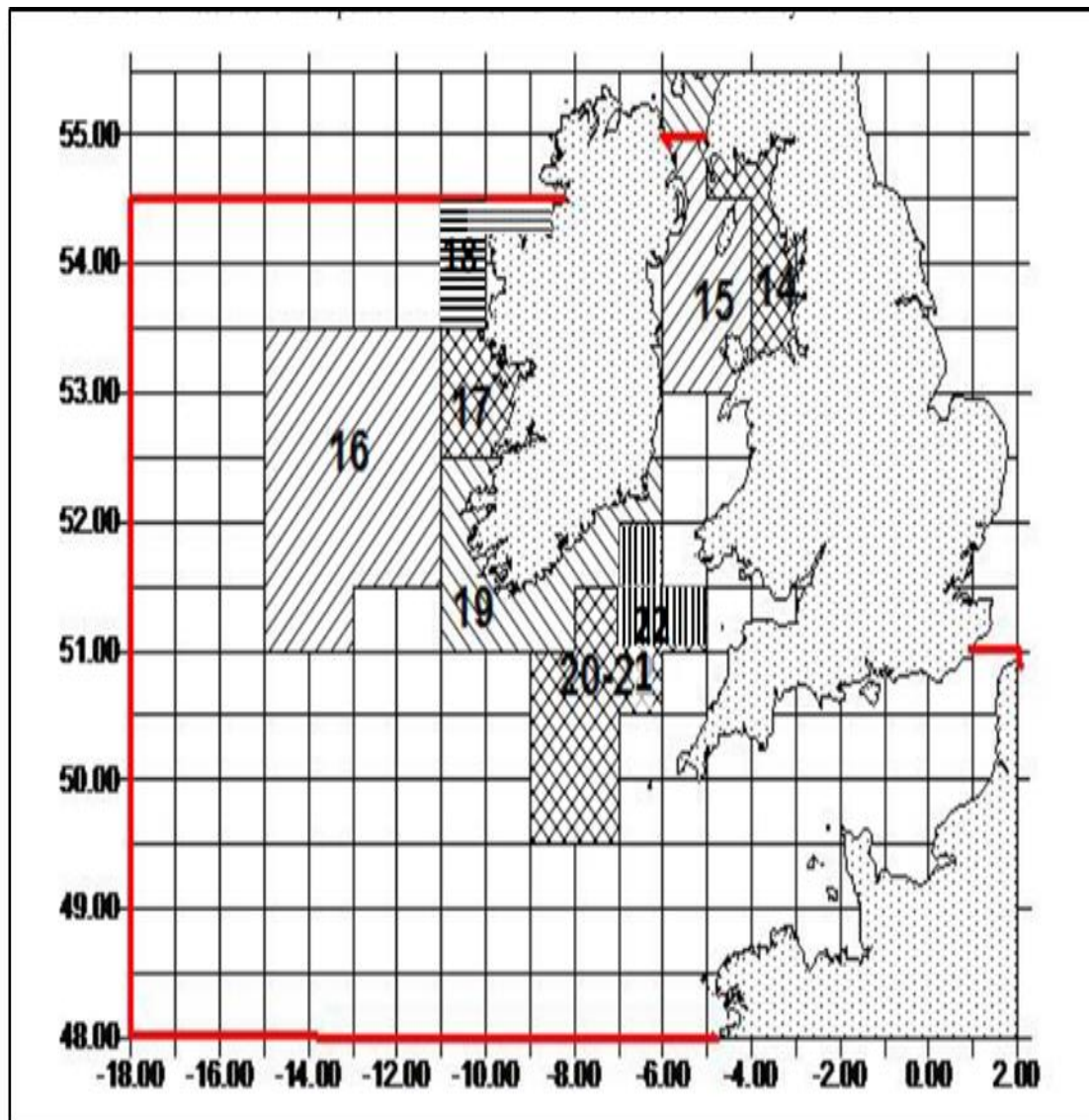
Figure 1: ICES area map North East Atlantic<sup>3</sup>



<sup>3</sup> [UK Sea Fisheries Statistics 2011, UK Marine Management Organisation, Appendix 2](#)

It is also worth noting that there can be sub divisions within these ICES areas for particular species. In relation to nephrops, ICES Area VII is split into nine so called Functional Units (FUs) for the purpose of stock management. Figure 2 below highlights the location of these nine FUs.

Figure 2: Functional Units within ICES Area VII<sup>4</sup>

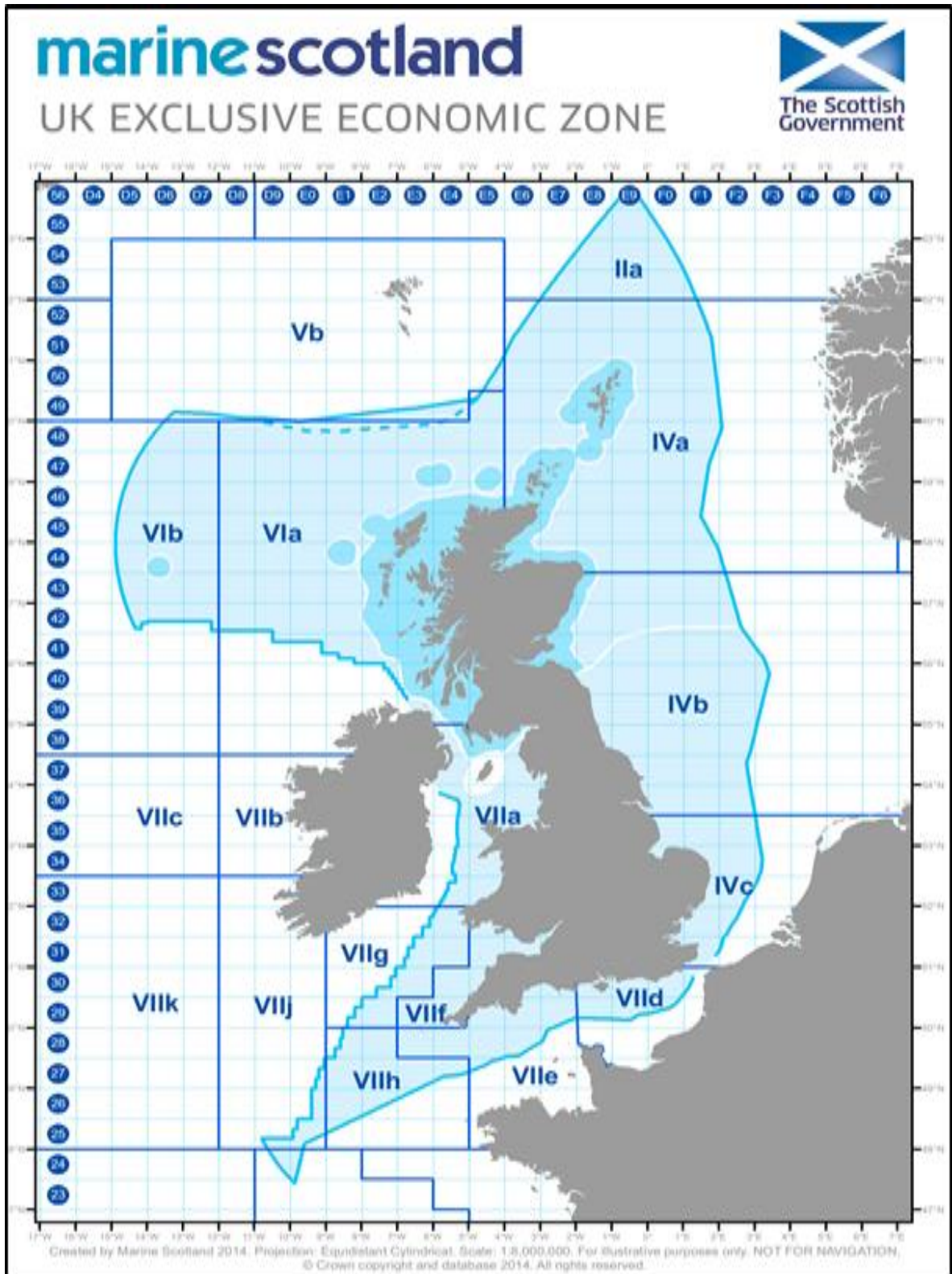


In addition to existing fishing areas, and given the fact that the UK has now left the EU, figure 3 below highlights the boundary of the UK's Exclusive Economic Zone (EEZ) as it relates to ICES Areas. Within figure 3 the UK EEZ is the area shaded blue, and if the UK and EU fail to reach a fisheries agreement, this area may well be exclusively fished by the UK fishing fleet.

<sup>4</sup> [ICES Advice 2012, Book 5, page 2](#)



Figure 3 : UK Exclusive Economic Zone<sup>5</sup> (all sea shaded blue) and how it relates to ICES areas (figure provided by Marine Scotland)



<sup>5</sup> Data Source: [data.admiralty.co.uk](http://data.admiralty.co.uk)

### 4.3 TACs for ICES Area VIIa

Within ICES Area VIIa, the 2020 TACs agreed for key commercial species by the Fisheries Council Ministers on the 18<sup>th</sup> December 2019 are set out in table 2 below.

Table 2: ICES Area VIIa (Irish Sea) agreed TACs for selected species in 2020<sup>6</sup>

Species	Final total TAC 2020 (tonnes)	UK quota (tonnes) and as percentage of overall TAC for Area	Ireland quota (tonnes) and as percentage of overall TAC for Area
Herring	8,064	5,965 (74%)	2,099 (26%)
Cod	257 <sup>7</sup>	74 (66%)	170 (29%)
Haddock	3,156	1,512 (48%)	1,366 (43%)
Whiting	721 <sup>8</sup>	279 (39%)	415 (57%)
Nephrops (all of Area VII)	16,815	5,516 (33%)	6,201 (37%)
Plaice	2,790	1,148 (41%)	1,442 (52%)
Pollack (all of Area VII)	12,163	2,121 (17%)	929 (8%)
Sole	457	96 (21%)	77(17%)

It should also be noted that one of the key challenges of fishing within the TAC system is the fact that TACs can vary significantly from year to year and this can have a significant effect on potential fishing effort for a particular species within a particular area.

Table 3 below highlights this issue by comparing the TAC data for selected commercial species during 2019 and 2020 within ICES Area VIIa.

Table 3: 2019 and 2020 TACs for selected species within ICES Area VIIa

Species	Final total TAC 2019 <sup>9</sup> (tonnes)	Final total TAC 2020 <sup>10</sup> (tonnes)	Percentage change 2019-20
Herring	6,896	8,064	+17%
Cod	807	257	-68%
Haddock	3,739	3,156	-16%
Whiting	727	721	0%
Nephrops (all of Area VII)	19,784	16,815	-15%
Plaice	3,075	2,790	-9%
Pollack (all of Area VII)	12,163	12,163	0%

The drastic cut in the cod TAC over this year is stark whilst other species have seen either moderate decreases, stasis, or even modest growth in relation to herring.

<sup>6</sup> [Council Regulation \(EU\) 2020/123](#).

<sup>7</sup> This cod TAC for the Irish Sea is entirely to cover by-catch – not for targeted fishing of the species

<sup>8</sup> This whiting TAC for the Irish Sea is entirely to cover by-catch – not for targeted fishing of the species.

<sup>9</sup> [Council Regulation \(EU\) 2019/124](#)

<sup>10</sup> [Council Regulation \(EU\) 2020/123](#).

The relative stability and size of the UK TAC for nephrops is one of the reasons that this species is so key to the Northern Irish fishing fleet at present.

#### 4.4 Current scientific data on the health of fish stocks within ICES Area VIIa

As stated previously, scientific data on the health of fish stocks is a key element in the annual or multi annual setting of TACs within the EU.

The **EU has made a commitment to achieving a maximum sustainable yield (MSY) for depleted stocks by 2020 at the latest.** In simple terms the MSY approach is based on a long-term strategy whereby catch rates are fixed, enabling fish stocks to reproduce so that exploitation can occur in sustainable economic, environmental and social conditions. The use of robust scientific data is central to the achievement of MSY, particularly in establishing the baseline condition of a stock.

Factors which are taken into consideration when determining the MSY of a particular stock include:

- **The level of fishing mortality** – the proportion of a stock killed/dying as a result of fishing activity, with an assessment being made as to the FMSY, ie the fishing mortality rate that is expected to deliver MSY;
- **The spawning stock biomass** – the total weight of fish within a stock that are able to spawn (reproduce), with an assessment being made as to the BMSY ie the spawning stock biomass that can support MSY;
- **The recruitment levels** – the number of young fish entering the fishery either through year groups ageing or fish migration.

It does however need to be recognised that the level of available data for different species within the EU is mixed.

The ICES assessment of key commercial stocks within the Celtic Seas (which includes the Irish Sea (VIIa)) with regards to whether they were MSY compliant in 2019 is set out in table 4 below.

Table 4: ICES Area VII scientific assessment of selected stocks based on MSY, 2019<sup>11</sup>

Species	ICES Area	2019 scientific assessment	
		Fishing pressure	Stock size
Herring	VIIa south of 52°30'N	✘	✘
Herring	VIIa north of 52°30'N	✔	✔
Cod	VIIa	*	*
Haddock	VIIa	✔	✔
Whiting	VIIa	✘	✘
Nephrops/Norway lobster	VIIa- FU 14	✔	✔

<sup>11</sup> [Celtic Seas ecoregion – ICES Fisheries overview, including mixed-fisheries considerations, Annex, table A1](#)

Species	ICES Area	2019 scientific assessment	
Nephrops/Norway lobster	VIIa- FU 15	✓	✓
Nephrops/Norway lobster	VIIb-c and VIIj-k- FU 16	✓	?
Nephrops/Norway lobster	VIIb- FU 17	✓	✗
Nephrops/Norway lobster	VIIa,VIIg,VIIj – FU 19	✓	✗
Nephrops/Norway lobster	VIIg,VIIh – FU 20,21	✓	?
Nephrops/Norway lobster	VIIi,VIIg – FU 22	✗	✓
Plaice	VIIa	✓	✓
Pollack	All of VII	*	*
Mackerel	All of VII	✗	✓
Sole	VIIa	✓	✗

#### Key for interpreting data in table 4<sup>12</sup>:

- ✓ = Desirable situation, e.g. fishing pressure is below or stock size is above the relevant reference point.
- ✗ = Undesirable situation, e.g. fishing pressure is above or stock size is below the relevant reference point.
- ? = Status of the stock is either (1) Unknown when neither quantitative assessment nor proxy calculation exist, or (2) Undefined when there is an analytical assessment but reference points are undefined.

\*<sup>13</sup>= stock does not have a full set of reference points so accurate assessment not possible.

The data for 2019 highlights the fact that of the 9 species highlighted, it is very much a 'mixed bag' in terms of whether the species identified are being sustainably fished ie MSY compliant.

The **positive news from table 4 is that four of the selected species across five locations are in a desirable situation** with regards to fishing pressure and stock size as follows:

- Herring in Area VIIa north of 52°30'N;
- Haddock in Area VIIa;
- Nephrops/Norway lobster in Area VIIa FU 14;
- Nephrops/Norway lobster in Area VIIa FU 15; and
- Plaice in Area VIIa.

**A further two stocks, namely nephrops within Functional Units 16 and 20-21, have question marks over their stock size data, which makes a full MSY compliant assessment impossible.**

<sup>12</sup> [ICES Advice basis, 20 December 2020, page 14](#)

<sup>13</sup> [Celtic Seas ecoregion – ICES Fisheries overview, including mixed-fisheries considerations, Annex, table A2](#)

**An additional three species across five locations have at least one component of their MSY assessment in an undesirable situation** as follows:

- Nephrops/Norway lobster in Area VIIa FU 17;
- Nephrops/Norway lobster in Area VIIa FU 19;
- Nephrops/Norway lobster in Area VIIa FU 22;
- Mackerel – all of Area VII; and
- Sole in Area VIIa.

**The situation is most stark for Herring in Area VIIa south of 52°30'N and Whiting in Area VIIa** which find both fishing pressure and stock size in undesirable situations.

**As an added complication, no accurate assessment of the cod stock within Area VIIa can be made across either of the MSY criteria identified here**, due to the lack of a full set of reference points.

#### 4.5 Sea fisheries catching sector in Northern Ireland

The sea fishing sector in Northern Ireland, in terms of catching, employs 854 people in Northern Ireland, 686 of whom are full time and 168 part time<sup>14</sup>.

In terms of ports, the boats which constitute the sea fishing industry in Northern Ireland are mainly located in the three County Down fishing villages of Portavogie, Kilkeel and Ardglass. There has been a notable development in recent years with the growth of the significance of Belfast, which has now surpassed Ardglass in terms of the size and value of landed catch.

Based on 2018 figures, Ardglass, Belfast, Kilkeel and Portavogie are within the UK's top 20 ports in terms of the tonnage of fish landed by UK vessels<sup>15</sup>.

In terms of the actual types of fish that make up landings in Northern Irish ports, and their actual value, table 5 below provides a breakdown for the most recent 2018 data.

Table 5: Breakdown and value of fish landings in Northern Ireland's three largest fishing ports in 2018<sup>16</sup>

	Demersal tonnes	Demersal £m	Pelagic tonnes	Pelagic £m	Shellfish tonnes	Shellfish £m
<b>Belfast</b>	-	-	7,600	4.1	-	-
<b>Kilkeel</b>	1,900	2.6	-	-	2,600	5.9
<b>Portavogie</b>	500	0.7	-	-	2000	4.6
<b>Total</b>	2,400	3.3	7,600	4.1	4,600	10.5

The total value of fish landed in Northern Ireland's three largest fishing ports in 2018 amounted to £17.9 million. Landings of pelagic species fish accounted for 52% of the

<sup>14</sup> [Northern Ireland Agri-Food Sector, Key Statistics, July 2019, table 17 page 14](#)

<sup>15</sup> [UK Sea Fisheries Statistics 2018, Marine Management Organisation, 2019, chart 3.16, page 60](#)

<sup>16</sup> [UK Sea Fisheries Statistics 2018, Marine Management Organisation, 2019, table 1.1, page 6](#)

total catch landed in the largest fishing ports here but this only equated to 23% of the overall value.

The average value per tonne of fish landed in the UK in 2018 for the three main species was as follows<sup>17</sup>:

- Demersal species - £2,000 per tonne;
- Pelagic species - £690 per tonne; and
- Shellfish species - £2,700 per tonne (live weight).

It should also be noted that vessels registered in Northern Ireland can and do land their catch in ports other than Ardglass, Belfast, Kilkeel or Portavogie. Table 6 below highlights the total tonnage and value of fish landed into the UK and abroad by vessels registered in Northern Ireland in 2018.

Table 6: Landings into the UK and abroad by NI administered vessels 2018<sup>18</sup>

Species of fish	Tonnes	Value (£m)
Demersal	3,100	4.3
Pelagic	36,600	23.8
Shellfish	12,100	29.1
<b>Total</b>	<b>51,800</b>	<b>57.1</b>

**It is evident from the data in table 7 that landings outside Northern Ireland are of a greater value than landings within local ports in relation to Pelagic and Shellfish species.**

#### 4.6 The fish processing sector in Northern Ireland

It should be noted that all the data under this section relates to businesses which process and package freshwater and sea fish species. Activities range from filleting to preparing cooked products<sup>19</sup>.

The fish processing sector here had a provisional gross turnover of £94million<sup>20</sup> in 2018 and was made up of around 24 companies with 643 full time equivalent employees<sup>21</sup>.

In terms of destination and value of sales of fish products table 7 below provides an overview of available data from 2017.

<sup>17</sup> [UK Sea Fisheries Statistics 2018, Marine Management Organisation, 2019, page 6](#)

<sup>18</sup> [UK Sea Fisheries Statistics 2018, Marine Management Organisation, 2019, table 3.1, page 39](#)

<sup>19</sup> [Size and Performance of the Northern Ireland Food and Drinks Processing Sector, Subsector Statistics 2017, with provision, Policy, Economics and Statistics Division, DAERA, Annex B, page 26](#)

<sup>20</sup> [Size and Performance of the Northern Ireland Food and Drinks Processing Sector, Subsector Statistics 2017, with provision, Policy, Economics and Statistics Division, DAERA, table 2 page 7](#)

<sup>21</sup> [Size and Performance of the Northern Ireland Food and Drinks Processing Sector, Subsector Statistics 2017, with provision, Policy, Economics and Statistics Division, DAERA, table 6 page 11](#)

Table 7: Destinations and values of fish processing sales, 2017<sup>22</sup>

NI	GB	ROI	Other EU	Rest of world	Total sales	External sales (outside NI)	Exports (outside UK)
13.6(14%)	45.6(48%)	7.2(8%)	24.2(26%)	3.4(4%)	94	80.4 (86%)	34.8(37%)

**It is apparent from the data in table 7 that sales outside Northern Ireland are critical to the survival of the fish processing sector here, accounting for 86% of total sales, whether they be to GB, ROI, other EU countries or the rest of the world.**

**Anything which could make accessing any of these markets either more difficult or more expensive will be challenging for the sector.** This assessment is emphasised by the fact that based on 2017 data, the average fish processing business here had net profit as a percentage of sales figures of 4.1%<sup>23</sup>, which is one of the lower figures across the entire food processing sector.

#### 4.7 Aquaculture in Northern Ireland

A Defra report from 2015 suggests that in 2012<sup>24</sup> there were a total of 97 active aquaculture sites within Northern Ireland and these were further broken down as follows:

- Finfish – 42 sites;
- Shellfish – 55 sites.

In terms of production, employment and contribution to the economy at that time the data in table 8 **reveals that aquaculture in Northern Ireland was a relatively small scale sector when compared to the rest of the UK.**

Table 8: Aquaculture production volume and value, and direct employment in the UK in 2012<sup>25</sup>

Country	Production volume		Production value		Employment	
	tonnes	%	£m	%	Number	%
England	15,624	7.6	31.6	5.3	1,081	33.5
Wales	9,452	4.6	10.4	1.8	134	4.1
Scotland	174,531	85.1	541.7	91.7	1,898	58.7
Northern Ireland	5,528	2.7	6.7	1.1	118	3.7
UK (total)	205,134	100	590.5	100	3,231	100

<sup>22</sup> [Size and Performance of the Northern Ireland Food and Drinks Processing Sector, Subsector Statistics 2017, with provisional estimates for 2018, Policy, Economics and Statistics Division, DAERA, table 8b, page 13](#)

<sup>23</sup> [Size and Performance of the Northern Ireland Food and Drinks Processing Sector, Subsector Statistics 2017, with provisional estimates for 2018, Policy, Economics and Statistics Division, DAERA, table 16a, page 22](#)

<sup>24</sup> [United Kingdom multi-annual national plan for the development of sustainable aquaculture, Defra, October 2015, figure 4, page 9](#)

<sup>25</sup> [Future of the Sea: Trends in Aquaculture, Foresight, Government Office for Science, July 2017, table 1, page 9](#)

**Caution does need to be exercised in relation to data here as it is from 2012 and as such is eight years old.**

#### **4.8 Access to labour in the fisheries sectors**

##### **4.8.1 Catching sector**

With regards to the catching sector here, a 2017 Seafish pilot survey<sup>26</sup> of employment in the UK fishing fleet revealed that 77% of the jobs in the catching sector were filled by UK citizens. A further 10% were filled by people from EU/EEA countries and the remaining 13% were filled by citizens of non-EEA countries.

**Looking at the specific survey data for Northern Ireland revealed that here had the highest proportion of non-UK workers across the entire UK at 53%. The greatest proportion of non-UK workers (54%) also tended to be found on nephrop trawl vessels, which are a key part of the local fishing fleet.**

##### **4.8.2 Processing sector**

A 2017 DAERA survey<sup>27</sup> of the overall food processing sector in Northern Ireland estimated that 40% (9,767) of employees, were citizens of Other EU countries (EU excluding the UK and Ireland) and 3.5% (850 employees), were citizens of the Rest of the World (ROW).

With specific regards to the fish processing sector 24.2% of employees (158) came from Other EU countries (EU excluding the UK and Ireland). There were no workers within fish processing from the Rest of the World.

#### **4.9 Key observations**

Having considered the data relating to the fisheries sector set out in sections 2.1 to 2-9 a number of broad conclusions can be drawn as follows:

- **The EU's Common Fisheries Policy has had a significant impact on the local sea fishing sector;**
- **In overall Northern Ireland terms the sea fishing sector is relatively small but is significant for the economy of the three County Down villages where the local fleet is mainly based;**
- **As a result of EU rules under the CFP the local fishing fleet is predominantly but not exclusively focussed on the catching of prawns;**

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<sup>26</sup> [2017 Pilot Survey of employment in the UK fishing fleet. Seafish, 2017](#)

<sup>27</sup> [DAERA Migrant Labour and Trade Enquiry. DAERA, 2017](#)



- **The available evidence suggests that there are a number of fish species within the ICES VII and VIIa areas, which are the main focus of the local fleet, that are not being fished sustainably at present;**
- **The value of landings outside Northern Ireland is greater than local landings in relation to pelagic and shellfish species and this could present challenges post transition, particularly if there are additional checks or tariffs for movement of goods;**
- **The local fish processing sector, whilst small, makes a significant contribution to the areas in which it is based, but is heavily reliant on accessing markets outside Northern Ireland. In this regard additional checks or tariffs for goods leaving Northern Ireland could present challenges;**
- **Aquaculture appears to be relatively small in scale, but this needs to be caveated with the fact that the latest available data is from 2012;**
- **Access to migrant labour appears to be a greater issue for the local catching rather than processing sector, but any changes to the levels of existing provision could adversely affect either sector.**

## 5 General issues with the Bill

### 5.1 Impacts of a future UK-EU fisheries agreement

In effect, the Assembly's legislative consent is being sought for a Bill and powers within it which may be subject to significant change/restriction due to the potential outcome of negotiations for a future UK-EU Agreement on fisheries.

The issue of fisheries access has been a key focus of attention in the context of a UK/EU future trade agreement.

In the Political Declaration that accompanied the UK/EU Withdrawal Agreement, both sides undertook to use their best endeavours to conclude and ratify their new fisheries agreement by 1 July 2020.

As things stand the UK and EU have published their negotiating objectives and a number of the key elements as they relate to fisheries are summarised in table 9 below.

Table 9: EU and UK Trade Deal Negotiation objectives as they relate to fisheries

EU priorities <sup>28</sup>	UK priorities <sup>29</sup>
Emphasis on a <b>framework for the management of shared fish stocks.</b>	Acknowledgement that a <b>framework for our future relationship on matters relating to fisheries with the EU would be in line with precedent for EU fisheries agreements with other independent coastal states.</b>
<p><b>Objective of the provisions on fisheries should be to uphold Union fishing activities.</b> In particular, it should aim to avoid economic dislocation for Union fishermen that have been engaged in fishing activities in the United Kingdom waters.</p> <p><b>Uphold continued reciprocal access, for all relevant species, by Union and United Kingdom vessels to the waters of the Union and the United Kingdom.</b></p>	Framework agreement on fisheries should provide a clear basis <b>for an on-going relationship with the EU, akin to the EU's relationship with other coastal states, one that respects the UK's status as an independent coastal state and the associated rights and obligations that come with this.</b>
Continued responsible fisheries that ensure the long-term conservation and sustainable exploitation of marine biological resources, in line with the relevant principles under international and Union law, notably those underpinning the Common Fisheries Policy as laid down in Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013.	Any EU vessels granted access to fish in UK waters in annual negotiations would be required to comply with UK rules and would be subject to licensing requirements including reporting obligations. New fisheries management measures will be notified in good time.
Provisions on fisheries should be underpinned by effective management and supervision, and dispute settlement and enforcement arrangements, including appropriate remedies.	<p>Open to providing, in the agreement on fisheries, for the creation of a forum for cooperation on wider fisheries matters outside of annual negotiations. This could include cooperation on matters to support responsible fisheries management, such as data-sharing, science and control and enforcement.</p> <p>It should include arrangements for dispute settlement along the lines common to other fisheries agreements, including provision for the suspension of the agreement on fisheries if necessary.</p> <p>Trade in fisheries products should be covered by the Comprehensive Free Trade Agreement (CFTA)</p>
Provisions on fisheries should encompass cooperation on the development of measures for the sustainable exploitation and conservation of resources, including avoiding wasteful practices such as discarding.	Include provisions for sharing vessel monitoring data and information to deter and eliminate illegal, unreported and unregulated fishing. If annual negotiations provide for access to fish in UK waters, then additional data-sharing would be required for control and enforcement. As part of an agreement on fisheries, the parties could agree to designate additional ports under the rules of the North East Atlantic Fisheries Commission (NEAFC) to ensure each other's vessels are able to land in those ports.

<sup>28</sup> [ANNEX to COUNCIL DECISION authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement. Council of the EU, 26 February 2020](#)

<sup>29</sup> [The Future Relationship with the EU. The UK's approach to negotiations. HM Government, February 2020](#)

EU priorities <sup>28</sup>	UK priorities <sup>29</sup>
<p>The <b>provisions on fisheries should uphold existing reciprocal access conditions, quota shares and the traditional activity of the Union fleet</b>, and therefore:</p> <ul style="list-style-type: none"> <li>• <b>uphold stable quota shares, which can only be adjusted with the consent of both Parties</b></li> <li>• include modalities for transfers and exchanges of quotas and for the setting of annual or multi-annual total allowable catches (or effort limitations) on the basis of long-term management strategies;</li> <li>• Measures should be non-discriminatory and follow a science-based approach aligned to the objective of achieving maximum sustainable yield for concerned stocks.</li> </ul>	<p>Fishing opportunities should be negotiated annually based on the best available science for shared stocks provided by the International Council for Exploration of the Seas (ICES). The UK will no longer accept the 'relative stability' mechanism for sharing fishing quotas, which is outdated, based on historical fishing activity from the 1970s. This means that <b>future fishing opportunities should be based on the principle of zonal attachment, which better reflects where the fish live, and is the basis for the EU's fisheries agreement with Norway.</b></p>
	<p><b>UK will be negotiating separate fisheries framework agreements with other independent coastal states, notably Norway.</b></p>
	<p>UK Government recognises the interests of the devolved administrations in this area and is committed to working with them in the consideration of any agreement.</p>

It seems clear from the information in table 9 that there are some significant areas of difference between the two sides and as such there is no guarantee that a future fisheries agreement will be achievable. Notable areas of potential disagreement include the EU demand for existing reciprocal access agreements to continue, driven by the CFP, whilst the UK is more focused on emphasising its position as an independent coastal state and achieving a deal which is more similar to the EU's Fisheries Agreement with Norway.

It is too early to assess if a UK/EU Fisheries Agreement can either be reached at all, or by the 1<sup>st</sup> July 2020, but this process would appear to be a key indicator for the likelihood of an overall UK/EU trade agreement. In this regard, the UK Government has in recent days stated its intention to walk away from overall trade negotiations if there is no broad outline of a deal by June<sup>30</sup>.

**Key questions/observations relating to this issue include:**

- Will DAERA have any direct involvement in the negotiations to achieve a UK/EU fisheries agreement by July 2020?
- If a UK/EU fisheries agreement is achieved by July 2020, does DAERA believe that the existing Bill and the provisions within it will be compatible with this agreement?
- Is the existing Bill better suited to fisheries arrangements in a no deal scenario with the EU?
- How likely is it that Defra will have to bring forward a new UK Fisheries Bill depending on the outcome of both fisheries agreements and broader trade deal negotiations?

<sup>30</sup> [Post-Brexit talks: UK prepared to walk away in June if no progress, BBC news website, 27 February 2020](#)

## 5.2 Replacing EMFF funding

The European Maritime Fisheries Fund (EMFF) has been a key part of the EU's Common Fisheries Policy, and as such was designed to support maritime and fisheries activity and help deliver the objectives of the Common Fisheries Policy (CFP). It is also geared to encourage the development of Integrated Maritime Policy. During the most recent funding period, 2014-20, the EMFF was worth approximately £15m in Northern Ireland<sup>31</sup> as has a range of support provisions including:

- Investment on board Fishing Vessels;
- Fishing Vessel Energy Improvements and Re-engining;
- Aquaculture, Processing and Marketing;
- Investments to Shore Based Facilities;
- Partnership, Information Sharing, Advisory Services, Job Creation and Training; and
- Marine Environment and inland fishing.

Whilst Clause 33 paragraph 8 of the UK Fisheries Bill 2019-20 would seem to provide a basis for a similar funding scheme within Northern Ireland beyond the transition period, there is a lack of clarity on this issue.

The UK Government has given indications that it does intend to provide funding to the fisheries sector and did approve a three year £37.2 Maritime and Fisheries Fund (MFF)<sup>32</sup> in December 2018 that was designed to supplement the EMFF. Northern Ireland's share of this MFF money equated to £3.6m in Northern Ireland<sup>33</sup>.

The previous Government had also committed to

*...put in place new, domestic, long-term arrangements to support the UK's fishing industry from 2021, through the creation of four new schemes comparable with the EMFF to deliver funding for each nation. The Devolved Administrations will each lead on their own schemes<sup>34</sup>.*

### **Key questions/observations relating to this issue include:**

- Are there any indications as to either how much support will be available to the fisheries sectors post transition period, and whether this funding will be of a long term nature?
- Is this a ring fenced funding proposal are will it form part of the UK Shared Prosperity Fund, given the fact that EMFF funding was part of EU Structural Funds?
- How will the funding amounts for devolved administrations be calculated– will it be based on the EMFF formula, which saw Northern Ireland receive 10% of total UK funding?

<sup>31</sup> [McIlveen opens £15million fisheries grants programme for applications, DAERA press release, 13 September 2016](#)

<sup>32</sup> [£15.4 million funding boost for English fishing industry, Defra press release, 29 October 2019](#)

<sup>33</sup> *ibid*

<sup>34</sup> *ibid*

- Will the UK Government be sticking to the commitment made by the previous Government in October 2019?
- Will the new funding streams be fully funded by Treasury or will there be a requirement for a contribution from NI Executive funds?
- Will the new funding schemes include provisions such as gear adaptation that would enable the industry to better adapt to potential new opportunities? Including use of more selective fishing gears to reduce by-catch and discards?
- Will the proposed new scheme for Northern Ireland be compatible with the state aid considerations within Article 10 and annexes 5 and 6 of the Ireland/Northern Ireland Protocol?

### 5.3 Is the Bill compliant with the Ireland/Northern Ireland Protocol?

The Ireland/Northern Ireland Protocol<sup>35</sup> is a key component of the Withdrawal Agreement<sup>36</sup> negotiated between the UK and EU in October 2019. In effect the Ireland/Northern Ireland Protocol is the means by which the free movement of goods on the island of Ireland is intended to be secured regardless of whether the UK and EU successfully negotiate a free trade deal.

Amongst other things, the Protocol effectively binds Northern Ireland to a series of EU regulations as they relate to a range of goods, with fish products being an integral element. Adherence to these regulations is how Northern Ireland will be able to access the EU single market, and Annex 2 of the Protocol, which is substantial, lists all of the requirements. It is useful to note here that Northern Ireland is also required to automatically adopt any changes to the EU regulations listed in Annex 2.

In addition, any new EU regulations as they relate to areas such as fish products or standards, can theoretically be added to Annex 2, provided this is agreed by the Joint Committee which will oversee the operation of the Ireland/Northern Ireland Protocol. The Joint Committee will be made up of representatives from the EU and UK but it remains unclear at this time how it will function.

It should be noted that Article 10 and Annexes 5 and 6 of the Protocol also tie Northern Ireland into EU state aid rules as they relate to areas covered within the Protocol and which involve trade between Northern Ireland and the EU.

Whilst the Joint Committee will have a key role to play in the operation of the Protocol, the European Commission and European Court of Justice will ultimately have responsibility and powers to ensure that Northern Ireland adheres to the rules it is required to.

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<sup>35</sup>[Ireland/Northern Ireland Protocol to the UK/EU Withdrawal Agreement, 17 October 2019](#)

<sup>36</sup>[New UK/EU Withdrawal Agreement, 17 October 2017](#)

Specific seafishing/aquaculture related commitments within Annex 2 of the Ireland/Northern Ireland Protocol include those summarised in table 10 below.

Table 10: Selected Ireland/Northern Ireland Protocol Annex 2 requirements as they relate to fisheries/aquaculture

Annex 2 commitment	What it means/requires
Directive 2014/90/EU <sup>37</sup>	<ul style="list-style-type: none"> <li>• improves safety at sea;</li> <li>• prevents marine pollution;</li> <li>• ensures international safety standards for equipment on EU ships are interpreted in the same way across the EU.</li> </ul> <p>It imposes extra conditions on the national authorities responsible for certifying equipment on ships flying their flag (under international conventions) when issuing, endorsing or renewing certificates.</p>
Regulation (EC) No 708/2007 <sup>38</sup>	<p>Aims to create rules on aquaculture* practices to ensure adequate protection of the aquatic environment from the risks associated with the use of non-native species and locally absent species* in aquaculture.</p> <p>It is based on the voluntary alien species* rules of the International Council for the Exploration of the Sea<sup>39</sup> and the European Inland Fisheries and Aquaculture Advisory Commission<sup>40</sup></p>
Council Regulation (EC) No 850/98 – now repealed and replaced by Regulation (EU) 2019/1241	<p>Regulation (EU) 2019/1241:</p> <p>It sets out rules on how, where, when, which and how many fish can be caught in EU waters in order to conserve the species and protect marine ecosystems.</p> <p>ensure fishing levels correspond to the maximum sustainable yield*, to reduce unwanted catches and eliminate discards, and also to contribute to the achievement of good environmental status;</p> <ul style="list-style-type: none"> <li>• contribute to the protection of juveniles and spawning aggregations of marine species through the use of selective fishing gear and measures for the avoidance of unwanted catches;</li> <li>• minimise the impacts of fishing gear on marine ecosystems and in particular on sensitive species and habitats, including where appropriate by using incentives and other measures.</li> </ul>
Council Directive 2006/88/EC <sup>39</sup>	<p>Sets out:</p> <ul style="list-style-type: none"> <li>• animal health requirements for the sale, import or transit of aquaculture animals (farmed fish and shellfish);</li> <li>• minimum measures to increase general awareness and prevent disease;</li> <li>• minimum measures in the event of a suspected, or established, outbreak of disease.</li> </ul>

**Key questions/observations relating to this issue include:**

- Have the proposed provisions within the Fisheries Bill, whether they are UK wide or Northern Ireland specific, been tested to see if they are compliant with the Ireland/Northern Ireland Protocol?;
- Has any consideration been given to the potential impacts of regulatory divergence between GB and the EU, with regards to the provisions within the Bill? Northern

<sup>37</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0090>

<sup>38</sup> <https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=celex:32007R0708>

<sup>39</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32006L0088>

Ireland could be particularly vulnerable here, particularly if the scope of Annex 2 of the Protocol is expanded;

- There are numerous references within the Fisheries Bill to UK and NI Statutory Instruments which often implement EU Regulations. Has any assessment been made of how many of these proposed changes will be possible in light of Annex 2 commitments in the Ireland/Northern Ireland Protocol?
- What concerns does DAERA have in relation to an ability to influence any potential changes to Annex 2 of the Protocol?
- Has any consideration been given to the risk of regulatory divergence presented by Northern Ireland having to adhere to the specific requirements within table 10? Will any of these Annex 2 commitments have an adverse cost impact on the local fishing sector?

#### 5.4 No references to or provisions for migrant labour

Whilst migration is a Home Office responsibility, migrant labour has been a key factor enabling the seafood catching and processing sectors across the UK to function effectively (see Section 2.9). The absence of any provisions for the issue within the Bill could appear to be an oversight, particularly given the fact that Defra is currently actively engaged in sponsoring a Seasonal Workers pilot in England in 2019 and 2020.

Furthermore the Government announcement on the 19th February 2020 to pursue a points-based immigration system from the 1st January 2021, which will put an emphasis on 'skills', could present potential short term challenges to the local fishing industry in terms of both catching and processing.

##### **Key questions/observations relating to this issue include:**

- Has any assessment been made as to the potential impact on the local fish catching and processing sectors from the Home Secretary's proposed points based and skills focused migration system?
- How many of the jobs within the local sectors would meet the skilled labour threshold?
- If there is a decrease in non UK and ROI labour as a result of the Home Secretary's proposals, would supports could be given to the local fisheries sector to help address a potential labour shortage?

#### 5.5 Lough Foyle ownership dispute – impacts on aquaculture

An ongoing dispute over the ownership of Lough Foyle between Ireland and the UK continues to present challenges for the sustainable development of aquaculture on the Lough. The ownership dispute has effectively meant that the Loughs Agency, which has powers over aquaculture licensing, has been unable to wield its powers. This 'legislative limbo' has resulted in an unprecedented growth in unlicensed oyster farms

on the Lough, with the number of trestles expanding from approximately 2,500 in 2010–11 to around 50,000 today<sup>40</sup>.

As well as lost licence revenue of around £20 million pounds per year<sup>41</sup>, the excessive number of trestles present a potential disease risk to the long term viability of one of Europe's last wild oyster fisheries<sup>42</sup>.

**Key questions/observations relating to this issue include:**

- Is there any progress on resolving the ongoing Lough Foyle ownership dispute?
- Could this issue be part of the wider UK/EU fisheries agreements negotiations?

## 5.6 Voisinage Agreement

North-south co-operation on fisheries access and management predated both the UK and Ireland's membership of the EU, through the Voisinage Agreement. This informal agreement, was established through an exchange of letters in 1964 between senior civil servants in Belfast and Dublin, and enabled reciprocal access to fish in the 0–6 nautical mile zone of each other's territorial waters<sup>43</sup>.

The Voisinage Agreement operated successfully up until 2016 when a number of Irish fishermen questioned the legality of the Agreement. A subsequent court case heard by the Irish Supreme Court led to a ruling<sup>44</sup> that the arrangement was insufficient to facilitate access to Irish waters, and as a result Northern Irish fishing boats were banned from Irish territorial waters within the 0-6 mile limit. This decision was made pending the potential passing of a Bill within Dáil Éireann that would formalise and legalise access of Northern Irish vessels. No similar challenge or action was taken by the UK and as a result Irish boats were allowed, under the terms of Voisinage, to continue to access Northern Irish waters within the 0-6 mile limit.

A number of local fishing boats fell foul of this suspension of the Agreement in February 2019 when they were impounded by the Irish Navy for alleged breaches of fishing regulations within Dundalk Bay<sup>45</sup>.

The Irish President finally signed in to law the Sea Fisheries Amendment Act<sup>46</sup> in April 2019, which has once again enabled Northern Irish vessels to access Irish territorial waters within the 0-6 mile limit.

**Key questions/observations relating to this issue include:**

<sup>40</sup> [Lough Foyle oyster farms cashing in on political deadlock, BBC news website, 8 December 2016](#)

<sup>41</sup> [Oral evidence: Brexit and Northern Ireland: Fisheries, HC 878, Northern Ireland Affairs Committee, Thursday 14 June 2018, Newtownards, question 352](#)

<sup>42</sup> [Native Oysters page, Loughs Agency Website, 3 March 2020](#)

<sup>43</sup> [Brexit and Northern Ireland: fisheries, Northern Ireland Affairs Committee Report, 15 September 2018, Chapter 2: Territorial waters](#)

<sup>44</sup> [Barlow & ors -v- Minister for Agriculture, Food and the Marine & ors, Supreme Court of Ireland, 27 October 2016](#)

<sup>45</sup> [Northern Ireland fishing boats impounded by Irish Navy, BBC news website, 28 February 2019](#)

<sup>46</sup> [Sea-Fisheries \(Amendment\) Act 2019](#)



- Has any assessment been done on the actual impact on the local fishing fleet from the suspension of the Voisinage Agreement in 2016? What financial impact did it have? Were these impacts greater for some sub sectors than others?
- In the event of a failure to reach either a UK/EU fisheries Agreement, or wider trade agreement, can the Voisinage Agreement continue to operate?
- Has any assessment been made as to the future financial impacts on the local fishing fleet if the current access arrangements to Irish waters within the 0-6 mile limit disappeared?

## 6 Comments on specific elements of the Bill that extend and apply to Northern Ireland

Table 11 below sets out all of the Parts, Clauses and Schedules within the Agriculture Bill 2019-20 that both extend and apply to Northern Ireland. The table also highlights those areas for which the legislative consent of the Northern Ireland Assembly is being sought.

Table 11: Bill Provisions as they relate to Northern Ireland and the need for legislative consent

Provision	Extends and applies to NI?	Legislative consent sought from Assembly?
Clauses 1-3 (Fisheries objectives and joint fisheries statements and fisheries management plans)	Yes	Yes
Clauses 4-5 (Secretary of State fisheries statement)	Yes	No
Clauses 6-9 (fisheries management plans)	Yes	Yes
Clauses 10-11 (Effect of statements and plans and reporting)	Yes	Yes
Clause 12-13 (Access to British fisheries by foreign boats)	Yes	Yes
Clauses 14-18- (Licensing of fishing boats)	Yes	Yes
Clauses 19-22 (Access and licensing: offences and consequential amendments)	Yes	Yes
Clauses 23-24 (Secretary of State to determine fishing opportunities)	Yes	No
Clause 25 (Distribution of fishing opportunities)	Yes	Yes
Clause 26 (Duties to ensure fishing opportunities not exceeded)	Yes	Yes
Clause 27 (Sale of English fishing opportunities for a calendar year)	No	No
Clauses 28-32 (Discard prevention charging schemes)	Yes	Yes
Clause 33 (Financial Assistance)	Yes	Yes
Clause 34 (Power for MMO to impose charges)	Yes	Yes
Clause 35: Sea Fish Industry Authority	Yes	Yes

Provision	Extends and applies to NI?	Legislative consent sought from Assembly?
Clauses 36-41 (Power to make provision about fisheries, aquaculture, aquatic animal diseases and scope)	Yes	Yes
Clause 42 (Powers of Scottish Ministers, Welsh Ministers and Northern Ireland Department to make provision about fisheries, etc.)	Yes	Yes
Clause 43: (Legislative competence of the National Assembly for Wales)	No	No
Clause 44 (Amendments to the Marine & Coastal Access Act 2009)	No	No
Clause 45 (CFP Regulation: minor consequential amendments):	Yes	Yes
Clauses 46--51 (Final provisions)	Yes	Yes
Schedule 1 (Fisheries statements and management plans)	Yes	Yes
Schedule 2 (Regulation of foreign fishing boats)	Yes	Yes
Schedule 3: (Sea fishing licences: further provision)	Yes	Yes
Schedule 4 (Access and licensing: consequential provisions)	Yes	Yes
Schedule 5 (Sale of Welsh fishing opportunities for a calendar year)	No	No
Schedule 6 (Financial assistance: devolved authorities)	Yes	Yes
Schedule 7 (Imposition of charges: powers of devolved authorities)	Yes	Yes
Schedule 8 (Powers to make further provision: devolved authorities)	Yes	Yes
Schedule 9 (Amendments to the Marine & Coastal Access Act 2009)	No	No
Schedule 10: CFP Regulation: minor and consequential amendments)	Yes	Yes

It is worth noting that of the 48 Clauses and eight Schedules within the Bill that extend and apply to Northern Ireland, the legislative consent of the Assembly is not being sought for only four of these Clauses.

Due to time constraints, it has not been possible to consider all of the Clauses or Schedules so the focus here is on raising potential questions for those areas that might be more contentious/impactful within Northern Ireland. Sections 6.1 to 6.6 highlight those clauses/schedules that meet this criteria and also so identifies potential questions around them.

### **6.1 Clauses 1-3 (Fisheries objectives and joint fisheries statements and fisheries management plans)**

- There is a distinct lack of detail around what some of these objectives will actually mean or how they will be delivered. Does this provide flexibility or is there a risk that a lack of detail could be exploited as a means to avoid delivering the more challenging objectives?;

- With regards to the scientific evidence objective, what role will DAERA/AFBI have to play here? Will this role be enhanced as compared to the current activity under the CFP? Will the scientific methodologies/data employed be the same as they are currently? Will DAERA/AFBI be given additional UK resources/funding if they are to play an enhanced role?
- The climate change objective makes reference to minimising the adverse effects of fish and aquaculture activities on climate change and enabling fish and aquaculture activities to adapt to climate change. Has any local assessment been made of the adverse effects of fishing and aquaculture activity on climate here? Would additional resources be available to the fishing and aquaculture sectors to mitigate any adverse effects? Would such resources be a UK or NI responsibility?
- The bycatch objective makes reference to avoiding the catching of fish that are below minimum conservation reference size. Are these sizes likely to remain the same as they are at present or is there potential for the UK post transition to adopt new standards? Has any consideration been given here to the fact the Ireland/Northern Ireland Protocol of the UK/EU Withdrawal Agreement binds Northern Ireland to a series of EU regulations within Annex 2. Of particular significance, here is Council Regulation EC 850/98 in so far as it concerns minimum sizes of marine organisms. As an added complication, Regulation EC 850/98 has been repealed and replaced by Regulation EC 2019/1241.
- With regard to the equal access objective, it would be useful to clarify if there are any local boats which not be able to meet the qualifying criteria as UK fishing boats? Furthermore can a boat have a home port within the UK but be based in another country such as the Republic of Ireland?

## **6.2 Clauses 2-5 – Joint Fisheries statement (JFS)**

Will the Ireland/Northern Ireland Protocol present any challenges for Northern Ireland being able to sign up to the Joint Fisheries Statement?

## **6.3 Clauses 12-13 - Access to British Fisheries and regulation of foreign fishing boats**

- Would the Voisinage Agreement still be operable under the provisions in the Bill as they relate to the ban on entry of foreign vessels to British fisheries without a licence? Could the Voisinage Agreement provisions obviate the need for a licence?
- Does the Voisinage Agreement constitute an international arrangement to which the UK is a party – as defined in Clause 12 paragraph 1(b)?
- Are there any indications as to whether the UK government will continue to honour the Voisinage Agreement?
- Is the UK government intention to replace the Voisinage Agreement provisions with the proposed UK/EU Agreement on fisheries?

- In the event of a no-deal brexit could the Voisinage Agreement continue as at present?

#### **6.4 Clauses 14-18 - Licensing of fishing boats**

- Will the UK Marine Management Organisation actually have the power to issue a fishing licence for boats fishing within the Northern Ireland zone? This runs counter to the fact that the MMO powers currently only extend to offshore waters as they relate to Northern Ireland i.e. between 12 and 20 nautical miles from shore;
- Could DAERA theoretically use the powers under Clause 17 to honour the Voisinage Agreement by unilaterally issuing licences to boats from the Republic of Ireland covering the 0-6 mile zone?

#### **6.5 Clauses 23-27 - Fishing opportunities**

- What formula will the Defra Minister be utilising for determining the catch and effort quota that will apply to local boats and the Northern Ireland zone? Will this be based on existing CFP allocations or will it be a new process and methodology?
- Whilst the Defra Minister is obliged to consult with the devolved administrations, how likely will he/she be to act on any views they express? In effect is the Executive confident that it will be both consulted and listened to with regards to its views on the level of catch and effort quota that it wishes to utilise within Northern Ireland?
- How will the government manage the allocation of additional fishing opportunities as they relate to Northern Ireland? Will this be a matter for DAERA to decide?

#### **6.6 Clauses 28 – 32 - Discard prevention charging schemes**

- It would appear that according to Clause 29 paragraph 1 that this scheme would apply to either the holder of an English sea fishing licence or a producer organisation that has at least one member who is the holder of an English sea fishing licence. Do any of our local fish producer organisations meet these criteria? If the answer is yes, does the discard prevention charging scheme then apply to the entire fish producer organisation membership?
- This issue could be significant for the local fishing fleet, if it applies, as the nephrops sector here is more susceptible to the issue of discarding. A Seafish Q&A publication from 2009 recognised this issue as follows:

*The dominance of demersal trawl gear and high discards by the important shrimp, Nephrops, and flatfish trawl fisheries are major factors that contribute to high aggregate discard rates in North East Atlantic fisheries<sup>47</sup>*

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<sup>47</sup> [Key questions on discards, Seafish, 2009](#)

- If the discarding charge does apply to the local fleet will additional resources be made available to the local fleet to more widely adopt selective fishing gear as means to reduce discards and therefore reduce the risks of charging?