



Committee for Agriculture, Environment and Rural Affairs

Report on Legislative Consent Memorandum on the UK Government Fisheries Bill 2019-2020

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Report on the Legislative Consent Memorandum laid by the Department of Agriculture, Environment and Rural Affairs on the UK Government Fisheries Bill

Powers

1. The Committee for Agriculture, Environment and Rural Affairs is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No. 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Agriculture, Environment and Rural Affairs (DAERA) and has a role in the initiation of legislation. The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of 5.
2. The Committee has the power to:
 - Consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
 - Approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
 - Call for persons and papers;
 - Initiate inquiries and make reports; and
 - Consider and advise on matters brought to the Committee by the Minister of DAERA.

Background

3. The Fisheries Bill (the Bill) 2019-21 was introduced to the House of Lords on 9 January 2020. It had its second reading on 11 February 2020 and moved to Committee Stage on 2 March 2020.
4. The purpose of the Bill is to make provision in relation to fisheries, aquaculture and marine conservation; to make provision about the functions of the Marine Management Organisation; and for connected purposes. The Bill aims to provide for a new legal framework to replace the Common Fisheries Policy.
5. The Bill contains 51 clauses and 10 Schedules. Clauses 1-26 extend to Northern Ireland and legislative consent is being sought for clauses 1-3, 6-22, and 25-26 inclusive. Clauses 33-42 and 45-51 extend to Northern Ireland and legislative consent is being sought for these clauses. Schedules 1-4, 6-8 and 10 extend to Northern Ireland and legislative consent is being sought for the schedules.

6. Legislative Consent Motion was laid in the Assembly on 24th March 2020. The draft motion, tabled by the Minister for DAERA, is:
“That this Assembly agrees that the provisions in the Fisheries Bill, as introduced into the House of Lords on 29 January 2020, should be considered by the UK Parliament”

Committee Consideration

7. At its meeting on 5 March 2020, the Committee received an oral briefing from DAERA outlining the detail of the Bill as it relates to Northern Ireland and informing the Committee that a Legislative Consent Motion would be required.
8. The Committee took oral and written evidence on 5 March 2020 from the following stakeholders:
 - Anglo North Irish Fish Producers’ Organisation;
 - Northern Ireland Fish Producers’ Organisation;
 - Northern Ireland Fishery Harbour Authority; and
 - Northern Ireland Marine Taskforce.
9. The Committee commissioned a briefing paper on the Fisheries Bill from the Northern Ireland Assembly Research and Information Service. The Committee also received a written submission from Brexit and the Environment.

Committee for Agriculture Environment and Rural Affairs

Consideration of evidence and key issues

Brief overview of the Fishing Industry

The local fishing fleet employs 854 people in Northern Ireland, 686 of whom are full time and 168 part time¹. It does, at present, fish throughout European Union (EU) waters but mainly out of the International Council for the Exploration of the Seas (ICES) divisions VIIa and Via. The fleet is largely based in, and operates out of, the three County Down ports of Kilkeel, Ardglass and Portavogie - all of which are in the top 20 in terms of tonnage of fish landed by United Kingdom (UK) vessels. In recent years, Belfast Port has begun to register landings for pelagic fish.

The table below, extracted from the Research and Information Service briefing paper on the UK Fisheries Bill², commissioned by the Committee, shows the types of fish that makes up landings in local ports.

Table 1: Breakdown and value of fish landings in Northern Ireland's three largest fishing ports in 2018³

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

It should also be noted that vessels registered in Northern Ireland (NI) can and do land their catch in ports other than Ardglass, Belfast, Kilkeel or Portavogie. The Committee's Research paper indicated that, for pelagic and shellfish species, landings outside NI, by the local fleet, are of greater value than landings within local ports. The fish-processing sector had a provisional gross turnover of £94 million⁴ in 2017 with around 24 companies with 643 full time equivalent employees⁵.

¹ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/raise-briefing-paper---fisheries-bill.pdf> (page 13)

² <https://publications.parliament.uk/pa/bills/lbill/58-01/071/5801071.pdf>

³ UK Sea Fisheries Statistics 2018, Marine Management Organisation, 2019, table 1.1, page 6

⁴ 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

⁵ 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

CONSIDERATION ON EVIDENCE AND KEY ISSUES - UK PARLIAMENT FISHERIES BILL

1. At the end of the transition period, currently set at 31st December 2020, the UK will no longer be part of the Common Fisheries Policy (CFP). The CFP has been the main driver for how fisheries policy in the UK has been managed since 1983.
2. Under CFP rules, all member states with fishing fleets have access to each other's waters - with the first 12 nautical miles being off limits. In December each year, the Fisheries Ministers from each member state in the EU gather for a Fisheries Council. That Council decides the amount of fish of each stock that is subject to quota and divides that quota up amongst the member states using a historic methodology. The UK, when it was a member state, then divided its allocated quota of the relevant stock between the four fisheries authorities of the UK. The Department for Agriculture, Environment and Rural Development (DAERA), the fisheries authority for this jurisdiction, allocates its share of the quota mainly via the two fish producer organisations: -
 - Northern Ireland Fish Producers Organisation (NIFPO); &
 - Anglo Northern Ireland Fish Producers Organisation (ANIFPO).
3. The UK Fisheries Bill (the Bill) makes provision for a new framework to replace the CFP. The Explanatory Notes that accompany the Bill explains that it will provide '*...the legal framework for the United Kingdom to operate as an independent coastal state under the United Nations Convention on the Law of the Sea 1982 (UNCLOS) after the UK has left the European Union (EU) and the Common Fisheries Policy (the CFP).*'⁶
4. The Bill provides for a common approach to fisheries management between the jurisdictions of the UK and makes reforms to fisheries management in England. Additional powers are provided to the Marine Management Organisation ("the MMO") in connection with regulation of fishing and the marine environment in the UK and beyond. In summary, the Bill provides: -
 - that the national fisheries authorities (England, Wales, Scotland & Northern Ireland) produce a Joint Fisheries Statement (JFS) stating how

⁶ <https://services.parliament.uk/Bills/2019-21/fisheries/documents.html> (page 4)

- each intends to achieve the fisheries objectives defined in clause 1 of the Bill. The statement would be followed by fisheries management plans;
- ends the right for EU vessels to access British fishing waters and introduces a licence requirement for foreign fishing vessels; and provides some information on the associated offences;
 - provides that British fishing boats are required to be licensed by the relevant devolved administration and replaces the existing licensing powers; and provides some information on offences and penalties;
 - provides powers to the UK Secretary of State to determine fishing opportunities for UK boats - the maximum quantity of sea fish that may be caught and the days that fishing boats may spend at seas. This is to take account of existing international obligations (which could be future EU / other agreement);
 - allow the sale of rights of English and Welsh “catch quotas” or “effort quotas” for a year;
 - allows a discard prevention charging scheme to be introduced in England;
 - enable financial assistance schemes to be established in England, Wales, Scotland and Northern Ireland to replace the European Maritime and Fisheries Fund (EMFF); and
 - powers for the UK Secretary of State to make provisions about fisheries and aquaculture.
5. The Bill has 52 clauses and 10 schedules. DAERA provided the Committee with information on the clauses that applied to Northern Ireland⁷. Officials explained that most of the Bill required consent except for four of the 52 clauses that dealt with reserved matters. Those were the two clauses providing for the Secretary of State's fisheries statement, and two clauses providing for the Secretary of State determining the fishing opportunities. Legislative consent is also required for eight schedules of the 10.
6. The Committee wishes it to be clearly understood that due to the complexity of the Bill and the limited time that it has had to consider and scrutinise the Bill, it has been unable to fully explore and understand the potential impacts and implications to the local fishing industry, seafood processing industry and the

⁷ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/clauses-extended-to-northern-ireland.pdf>

coastal communities associated with such. For example, time did not allow for deliberations on matters such as discards, full cost recovery of services etc.

7. Nevertheless, it has been able to identify some important issues that it brings to the attention of the DAERA and to the Northern Ireland Assembly. The information that the Committee has gathered on these issues, based on the concerns expressed in the evidence, is provided below on a thematic basis as follows: -

- Fishing Objectives / JFS / Fish Management Plans (FMP) - clauses 1 to 11 & schedule 1;
- Access & Licensing - clauses 12 - 22 & schedule 2, 3 & 4;
- Fishing opportunities / quotas - clauses 23 - 26;
- Replacement Funding for EMFF - clauses 33 & schedule 6;
- Other fisheries issues not in the Bill such as Migrant labour, Trade Deals, Voisinage Agreement, Lough Foyle, etc.

MAIN ISSUES

Fishing Objectives / Joint Fisheries Statements/ Fish Management Plans

8. The Committee noted that the Bill revolves around this hierarchy of fishing objectives, leading to a JFS and underpinned by the FMP. The clauses providing for these are clauses 1 - 11 with the fishing objectives listed and defined in clause 1: -

- the sustainability objective,
- the precautionary objective,
- the ecosystem objective,
- the scientific evidence objective,
- the bycatch objective,
- the equal access objective,
- the national benefit objective, and
- the climate change objective

9. In its written briefing to the Committee, DAERA stated: -

'Together with the Devolved Administrations, a Joint Fisheries Statement will set out how these objectives will be achieved, allowing for divergence within a joint approach. The Secretary of State may then choose to set out further policies in a Secretary of State Fisheries Statement, although this is not a

*requirement. Once published, the government would be required to meet the policies in the statements. Beyond the Joint Fisheries Statement, the Bill also requires the production of **fisheries management plans**. These plans will be developed on a stock by stock, or fishery basis, and will set out the actions that the Secretary of State and the Devolved Administrations, where appropriate, will take to ensure those stocks recover to levels consistent with their maximum sustainable yield. These plans will also be legally binding.⁸*

10. The Committee heard from various stakeholders on these clauses. The NI Fish Producers Organisation (NIFPO) raised a number of concerns specifically around the precautionary objective and the climate change objective that can be found in detail in its written submission to the Committee⁹. It also raised a concern on the ecosystem objective when it stated: -
*'NI Industry would like to see the "ecosystem" definition expanded to include the sustainability of the fleet and the communities they support to allow a holistic consideration. We have concern that when any one area of the interconnected whole is considered and legislated for in isolation it leads to unintended consequences which can be counterproductive to the aim. To facilitate the ecosystem approach it is NIFPO's view that, to be most effective, the management of environmental protection and fisheries policy in NI waters should sit side by side and wholly with DAERA, with whom a track record of positive and effective co-operation exists. Splitting the management of environmental responsibilities and fishing activity will only serve to produce disjointed strategies and be much less effective in achieving the aim of ecosystem restoration. If the Assembly shares our view that the NI marine environment needs effective protection it should take all measures available to bring its protection into our own hands.'*¹⁰
11. The Committee also heard from Anglo Northern Ireland Fish Producers Organisation (ANIFPO) who stated the following: -
'We support the eight objectives outlined in the Bill as all being relevant and important for the management of our fisheries in the future. The use of management plans as the vehicles to manage our fisheries sustainably have the potential, in our view, to provide an agile, flexible but structured way to balance the different but equally important objectives.
Using management plans to achieve a balanced approach balanced to sustainable fishing is, an intelligent way to avoid the one-dimensional policies

⁸ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/daera-briefing-paper--fisheries-bill.pdf>(page 13)

⁹ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/nifpo-briefing-paper--fisheries-bill.pdf>

¹⁰ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/nifpo-briefing-paper--fisheries-bill.pdf>(page 2)

which made the Common Fisheries Policy such a rigid and cumbersome management framework. To use an absurd example to make a point: the way to achieve low carbon emissions to achieve the new Climate Change Objective, might be to catch all of the UK's fishing opportunities using a single state of the art vessel. Such a one dimensional approach would obviously carry numerous disadvantages. Similarly, maximum sustainable yield is a useful benchmark for measuring progress towards sustainable fishing - but only when it is applied in ways which make sense in terms of the other objectives.¹¹

12. The Committee took evidence from Northern Ireland Marine Taskforce (NIMTF) who broadly welcomed the Bill and the fisheries objectives but considered that these should be underpinned by a '*... by a clear legal duty on relevant authorities to achieve them.*'¹² It also stated that it was important to achieve a level of coherency between all three and devolved legislation to ensure that the objectives were achieved.
13. The Committee also noted that the Northern Ireland Fisheries Harbour Authority (NIFHA), who manage the main fishing harbours of Kilkeel, Portavogie and Ardglass, had a broad welcome for the fisheries objectives, the JFS and management plans.
14. Research commissioned by the Committee highlighted a number of other concerns including some of those listed below.¹³
 - With regards to the scientific evidence objective, what role will DAERA/Agri-Food Biosciences Institute (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 refers 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

¹¹ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/anifpo-briefing-paper---fisheries-bill.pdf>(page 3)

¹² <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/nmni-nimtf-briefing-paper---fisheries-bill.pdf>(page 4)

¹³ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/raise-briefing-paper---fisheries-bill.pdf>(page 27)

available to the fishing and aquaculture sectors to mitigate any adverse effects? Would such resources be a UK or NI responsibility?

- The bycatch objective refers 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 as 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?
15. The Committee noted a distinct lack of detail around these clauses. This means that it is difficult to assess what their impact on the industry may actually be. The Committee repeats its concern that lack of time and resources has prevented detailed scrutiny of the Bill.

Access & Licensing

16. The Bill revokes and replaces existing powers for licensing authorities to license fishing in UK waters. **All UK Boats** will be licensed by one of the fisheries authorities, and be able to fish in all UK waters. The Bill has some UK-wide provisions to allow the Secretary of State to make regulations to ensure consistency throughout UK waters (**these require consent of the devolved administrations but not the devolved legislatures**). Brexit and Environment in written evidence to the Committee noted: -
*'Such regulations can only be adopted with the consent of the DAs. This is intended to balance the devolved settlement with the need for consistent rules across the UK.'*¹⁴

¹⁴ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/brexit-and-environment-briefing-paper---fisheries-bill.pdf> (page 2)

17. Further information on the conditions attached to the licence, such as area in which fishing is allow, type of fish and quantities as well as methods etc. can be found in the Bill.
18. **Foreign fishing vessels / non- UK vessels** - the Bill uses the term 'foreign fishing vessels'. Some Members of the Committee have previously raised an objection to this term specifically its use in connection with boats from the Republic of Ireland. For the purposes of this report, the Committee will use the term non-UK vessels. Giving oral evidence to the Committee DAERA officials addressed this issue stating: -

'I will start with access to and licensing of foreign vessels in UK waters. I know that we have had some difficulties with this terminology in Committee previously. We thought that it was useful to highlight that, in licensing legislation, the term "foreign fishing vessels" is used across the world in most legislatures to define vessels that are not registered in that country. We have taken the examples of Canada, New Zealand and the Republic of Ireland. The licensing legislation that applies in each of those jurisdictions provides that a "foreign fishing vessel" is one that is not registered there. We are aware of your concerns on that and welcome your thoughts on alternative terms.'

We should warn you that, in the Fisheries Bill, the term "foreign fishing vessel" occurs 53 times. We have picked that matter up with our DEFRA colleagues and explained the issue to them, but, as I said, in the Bill that is with the House of Lords, the term is mentioned 53 times.¹⁵

19. There will be a requirement for non-UK vessels to have a UK-issued licence to fish within UK waters. DAERA official noted that the Bill revokes the EU legislation that presently provides for automatic rights for vessels registered in the EU to access UK waters. It also revoking provisions in the Fishery Limits Act 1976. It also introduces a new requirement that foreign fishing in UK waters must be licensed by the MMO or one of the Fisheries Administrations to fish in UK waters or be for a purpose recognised under international law (for example, freedom of navigation).
20. Clause 17 would empower the relevant fisheries authority to issue licences to non-UK vessels to fish inside their zone. Thus, for example, the Scottish

¹⁵ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbill/aera_050320.pdf (page 2)

fisheries authority could issue a licence for a non-UK vessel to fish in Scottish waters but not in Welsh waters. Conditions for licences are provided in the Bill and include time spent at sea, landing requirements etc.

Compliance with Licencing conditions for local and non-UK boats

21. In discussing licencing, the Committee noted a concern of NIFPO regarding a potential enforcement gap. NIFPO pointed out: -
*'The second issue, in terms of enforcement and vulnerabilities, is the Isle of Man waters. As it would stand post-Brexit, a non-UK vessel can access Isle of Man waters and fish there perfectly legally. That is fine when done legally, but there is a real vulnerability there for illegal, unreported and unregulated (IUU) fishing, in the form of misreporting. That is claiming that you caught fish in one area, whereas, in fact, you caught them elsewhere. That is a particular vulnerability that I want to see guarded against'*¹⁶.
22. The Committee has noted that there is considerable uncertainty around moving from the fishing waters of one of the European jurisdiction to, potentially one of the four jurisdictions of the UK / Island of Man fishing waters and that of the Republic of Ireland. The Committee has indicated that it would like to see further guidance provided on how the devolved administrations will address this.
23. The Committee discussed enforcement and compliance with the NIMTF who stated that one of its priorities was a commitment to roll out electronic monitoring and CCTV cameras on all vessels fishing in UK waters. This was to assist in full and verifiable documentations of catches as well as for robust monitoring and enforcement. The Committee discussed this further with NIMTF who stated: -
'Remote electronic monitoring is a fisheries management tool. It is an array of sensors on the vessel, as well as video cameras. We would like to see it rolled out for all UK vessels, but we also think it important that the Bill include that any vessels that fish in UK waters must have the same requirement to have REM and CCTV on board. It is becoming a world-leading best-practice fisheries management tool. In Northern Ireland, using technology to monitor enforcement is really coming into the narrative. The Department is looking at rolling out a pilot trial of an inshore vessel monitoring system (IVMS). REM adds additional sensors to that system. REM is quite important as a data-collection tool as well. It has been shown in pilots in New Zealand, Australia

¹⁶ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillanifponifpo_050320.pdf (page 11)

*and America to be quite cost-effective. We have our future grant schemes. When we finish with the European Maritime and Fisheries Fund (EMFF) at the end of the year, we will have new national grants. There could be a funding mechanism to help with REM's roll-out on vessels.*¹⁷

24. The Committee discussed enforcement matters with the DAERA officials who commented that there are 10 working groups of which one is on control and enforcement. The Department currently has a Sea Fisheries Inspectorate with a fisheries protection vessel. DAERA officials recognised that the role would change with the new arrangement post 31st December 2020. The risks associated with such are being considered and additional resources will be requested as necessary.
25. The Committee, due to time constraints, has been unable to explore the financial and other resource implications for DAERA Sea Fisheries Inspectorate to ensure compliance with the licensing conditions provided in the Bill and potential for increased fishing opportunities. It also noted that it has been unable to fully explore the role of DAERA Sea Fisheries Inspectorate in ensuring compliance of non-UK boats with the licensing conditions provided in the Bill. The Committee also briefly discussed with witnesses the issue of what is known as flagships and the economic link but did not have the time to explore this matter and its implications for the local fleet further.

Fishing Opportunities / Quota and distribution of shares within the UK

26. One of the criticisms of CFP by the fishing industry is that EU fishing boats land more fish from UK waters than UK boats do. The House of Lords Library Briefing on the Fisheries Bill noted that: -
*'On average, between 2012 and 2016, other EU member states' vessels annually landed in the region of 749,000 tonnes of fish (£575 million revenue) caught in UK waters. UK vessels landed approximately 96,000 tonnes (£96 million revenue) caught in other member states' waters per year in the same period.'*¹⁸

¹⁷ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillnmtf_050320.pdf (page 5)

¹⁸ <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/LLN-2020-0051#fullreport> (page 3)

27. There is an expectation that when the UK exits the EU on 31st December 2020, that EU boats will no longer fish in UK waters, and that subsequently, the UK fishing industry will be able to fish and land some of this stock.
28. Both the EU and UK have noted that they want to conclude a new fisheries agreement by 1st July 2020. The Committee's research paper sets out the Trade Deal Negotiation Objectives for Fisheries¹⁹. In summary, the EU has stated that its position is to maintain as far as it possible the existing 'traditional' arrangements for EU boats to access and fish in UK waters. The UK position, as set out by Boris Johnston, is that the UK will control its own waters and that fishing opportunities are primarily for British boats. There is considerable speculation that there could be trade-offs between EU access to UK fishing waters and access by UK financial services to the EU markets.
29. The Bill at clause 23 provides that the UK Secretary of State will determine on a calendar year, fishing opportunities or quota for the UK, taking into account international obligations. The Bill allows that the Secretary of State must consult the devolved administrations. The fishing quota will then be distributed between the four fisheries administrations.
30. The UK Secretary of State must, in the calculation of fishing opportunity, take into account, international law and obligations. International law and obligations may include having to implement certain conservation and management measures such as gear restrictions.
31. The Committee discussed with DAERA officials what assessment had been undertaken on the potential increases for fishing opportunities for the local fleet. DAERA noted: -
'We have mapped out what we expect in an assessment of the benefits arising out of Brexit. We need to be aware that the main fishing opportunities for the fleet landing into Northern Ireland are mainly in the Irish Sea. We will not have the scale of Brexit benefits that Scotland might anticipate getting in the North Sea. They see a bigger imbalance in fishing opportunities.'

The prawn fishery is our main fishery. Earlier, in the RaSe briefing, we heard how that is managed under functional units, and we think that that might have

¹⁹ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/raise-briefing-paper---fisheries-bill.pdf> (page 18)

to change, but we do not think that our share of nephrops would increase so significantly that we would not be able to take our opportunities. For example, in the last few years, every other year they have maybe taken their full quota of prawns in the Irish Sea. Currently they are not, and in some years they do not take the full fishing opportunity for prawns that is available.

*Where we might get some benefit is in some of the white fish stocks – cod and whiting in particular, and perhaps plaice.*²⁰

32. It is the responsibility of the devolved fisheries authorities to allocated quota amongst their fishing industry. The two main fish producer organisations, NIFPO & ANIFPO, expect that the existing method of determining distribution of fishing opportunities between the four fisheries administrations, as currently used in connection with the CFP quota will be continued. However, there were some concerns when it came to the distribution of any additional quota to be realised from EU Exit. NIFPO stated in oral evidence to the Committee: -
*'We absolutely must avoid the Brexit dividend, as it is informally known, being allocated according to the territorial waters of each of the devolved Administrations. The Northern Ireland zone is very small comparatively, and it does not reflect the activity of the Northern Ireland fleet. Dividing it up according to square miles of territorial water would be pretty catastrophic for us in comparison with what we could have through other methods.'*²¹
33. NIFPO expanded on the two methodologies that it would endorse including using the existing fixed quota allocation. The second methodology would be to ensure that no fisherperson should be worse off because of EU Exit and that the quota should be divided equally among fishing vessel licence holders and then allocated to organisations like NIFPO and ANIFPO to manage on behalf of members. Both NIFPO and ANIFPO recognised that the needs of all section of the fleet included those boats who operate outside the fish producer's organisations or in the non-quota sector, to be included.
34. Representatives of the two fish producer organisations also referred to the Hague Preference (HP). The Hague Preference is a Common Fisheries Policy mechanism designed to adjust national fish quota allocations to take account of the needs of certain fisheries dependent areas in northern parts of

²⁰ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbilldaera_050320.pdf(page 8)

²¹ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillanifponifpo_050320.pdf(page 8)

the UK and in the Republic of Ireland. These arrangements can provide additional fishing opportunities to the UK and the Republic of Ireland, at the expense of other Member States when quotas for certain stocks fall below determined trigger levels. In discussing this with the Committee, ANIFPO noted: -

*'Since 1991, Northern Ireland fishermen have lost something like £50 million worth of cod that we have had to surrender to our colleagues in the Republic of Ireland because of the Hague Preference. That will end. It has to end, because we are out of the EU and no longer part of the common fisheries policy. Will that fish be caught come January 1 next year and during 2021? Of course, it will. Of course, we need to build capacity into the industry, and that includes adequate infrastructure at the coast. As we have always said, the strapline is "give us the tools, and we will deliver", and we will deliver for the Northern Ireland economy.'*²²

35. Members discussed with the NIFHA the ability of its three ports of Kilkeel, Portavogie and Ardglass to handle increased fish landings, perhaps of different stocks than would normally be landed. It noted from NIFHA that: -
 - Its prime source of income was the just over 2% levy on landings.
 - approximately 90% landings were from local boats; and
 - that they do get Republic of Ireland boats making landings including pelagic boats landing in Ardglass.
36. In connection with both the issue of Harbour infrastructure and the potential to maximize the opportunities that may be possible as a result of increased quote, the Committee noted concerns expressed by ANIFPO when they noted that: -

'If the question is changed slightly and is about the value of seafood caught by the Northern Ireland fleet and landed any place, the number shoots up from about £25 million to £70 million. We want to bring more of that £70 million back to Northern Ireland, and that is before we even start talking about what the windfall from Brexit might be. Unfortunately, our infrastructure, primarily along the County Down coast, does not currently cater for bringing that extra product home. That is why there are several ideas, including the one about a new outer harbour at Kilkeel, to provide the infrastructure so that we can bring

²² http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillanifponifpo_050320.pdf(page 3)

*that seafood home to create employment, to pay taxes and to help our economy.*²³

Replacement Funding for European Maritime Fisheries Fund (EMFF)

37. The Bill provides powers for DAERA to introduce schemes of financial assistance for the fish and aquaculture industries to improve the marine and aquatic environment and to develop areas in which fish or aquaculture activities are carried out etc. This is to replace the EMFF.
38. The Committee noted that the UK Government has indicated, in a Department for Environment, Food and Rural Affairs (DEFRA) Press Release October 2019 that it does intend to provide funding to the fisheries sector. That press release noted it was 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.*'²⁴
39. In its discussion with the Committee on this funding, DAERA officials noted that they have been in discussions with the UK on this matter but that there is still nothing in black and white that guarantees such funding. There were indications that while it would be subject to the spending review that funding should be similar to what was available under EMFF.
40. In its written evidence to the Committee the NIMTF provided examples of the support that the EMFF has provided to the fishing industry including technological innovations such as gear trial and combatting marine litter. It emphasised that any '*...future national funding scheme must support the sector and marine environment, holistically.*'²⁵
41. The NIFHA indicated that it relies heavily on capital grants to maintain and improve its harbour infrastructure and welcomes the indication of replacement

²³ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillanifponifpo_050320.pdf(page 8)

²⁴ <https://www.gov.uk/government/news/154-million-funding-boost-for-english-fishing-industry>

²⁵ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/nmni-nimtf-briefing-paper---fisheries-bill.pdf>(page 5)

funds. It outlined the changing nature of the fleet and that all three harbours required significant investment as a result.

42. In oral evidence to the Committee NIFHA stated: -
*'While I mentioned that we are operationally self-funded, we are entirely dependent on grant aid for capital works. Obviously, we welcome the inclusion of powers for the Assembly to issue grants for this purpose. Indeed, DAERA has commissioned a review of the opportunities for the industry going forward and of what investment will be needed in the harbours to meet those opportunities in the long term.'*²⁶
43. The Committee noted some further concerns raised in its Research paper²⁷ as follows:-
- Are there any indications as to either how much support will be available to the fisheries sectors post transition period, or 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?
 - 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?

Other matters and issues that may affect the fishing industry

²⁶ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillnifha_050320.pdf (page 2)

²⁷ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/raise-briefing-paper---fisheries-bill.pdf> (page 20)

44. In its gathering of evidence and information, the Committee noted a number of factors outside the Bill that, nevertheless may impact upon the implementation of Bill's provision. These are outlined later in this report but include:-

Ireland / Northern Ireland Protocol

45. The interface between the UK Fisheries Bill and the Ireland/Northern Ireland Protocol (the Protocol) remains unclear to the Committee. It would appear to the Committee that the Protocol would mean that fish products would have to comply with a range of EU rules and regulations as per annex 2 of the Protocol. Over time, GB may move away from these rules and regulation. The Committee explored this matter with DAERA officials who stated: -
*'The protocol may limit our flexibility to do things that other places in the UK are doing. Scotland may be able to do some things on marketing standards or minimum landing sizes that we may not be able to do because we are tied in with having to stay aligned to the EU on certain issues.'*²⁸
46. In its written evidence to the Committee, ANIFPO noted: -
*'Like it or not the Northern Ireland Protocol has already provided us with the general rules on trade between Northern Ireland and the EU. However, there remain some details for the Joint Committee to be work out on that front too. We welcome the Prime Minister's commitment there will be no checks on the trade of seafood and other products from GB to Northern Ireland and we look forward to hearing how the Prime Minister's Commitment will be delivered, in particular with seafood that is brought to Northern Ireland for primary processing before being returned in its entirety to GB.'*²⁹
47. The Committee Research paper has provided some initial analysis of selected sea fishing / aquaculture related commitments within Annex 2 of the Protocol (page 22) and raises the following observations: -
- 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, about the provisions within the Bill? Northern Ireland could be particularly vulnerable here, particularly if the scope of Annex 2 of the Protocol is expanded;

²⁸ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbilldaera_050320.pdf(page 3)

²⁹ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/anifpo-briefing-paper---fisheries-bill.pdf>(page 4)

- 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?³⁰
48. The Committee noted that there is a distinct lack of clarity in this area and a large degree of uncertainty. The Committee does not expect that this lack of clarity and uncertainty will be addressed in the short to medium term and is concerned about the impact this may have on the fishing industry, the fish-processing sector and the coastal communities associated with such.
49. Members of the Committee also expressed concerns about the impact of the Protocol and balancing trade both in the north / south and the east / west dimension.

Trade

50. There is also an issue about where fish can be sold. Most of the fish landed in the UK by the UK fishing industry is sold to the EU and is subject to free market access. Under CFP, UK fishing boats could land, process and sell their catch at any EU Port, with free market access.
51. In connection with tariff and non-tariff issues, ANIFPO noted that it had member vessels that are owned and operate from Northern Ireland and are landing their produce into third countries most notably Norway. That give them an insight into and familiarity with the documentation and tariff issues but that:-
- 'Nevertheless, we are clearly very reluctant to see that expanded across the rest of the fleet, but we are ready for it. As Harry said, we have the Northern Ireland protocol in place. My understanding is that it protects us from a no-deal situation. Nevertheless, many details are still to be worked out in that. I referred to one, namely that, as UK registered trawlers, the entire fishing fleet*

³⁰ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/raise-briefing-paper---fisheries-bill.pdf> (page 22)

in Northern Ireland was being advised that, when landing a catch here at home, it might be subject to tariffs. That is a peculiarity that the joint committee needs to overcome. The protocol suggests that any product that is brought east-west – from GB into Northern Ireland – could be subject to tariffs as well. That seems an absurdity when Northern Ireland boats that are possibly landing in England or Scotland are bringing their product home for processing, and that is all sent back to the GB market.³¹

52. The Committee has already noted that, for pelagic and shellfish species, landings outside Northern Ireland by the local fleet, are of greater value than landings within local ports. Conversely, the UK imports most of the fish it eats. The Committee noted that ANIFPO operates two seafood factories in Kilkeel processing locally harvested nephrops, king scallops and a range of whitefish. Unfortunately, due to time constraints, the Committee have not been able to fully explore issues of trade and the Fisheries Bill.

Voisinage Agreement

53. The Committee are aware that until recently there had been an informal agreement between Northern Ireland and the Republic of Ireland that predated membership of the EU, known as the Voisinage Agreement. This allowed reciprocal access to fish in the 0-6 nautical mile zone of each other's territorial waters.
54. This operated successfully up until 2016 when a number of Irish anglers questioned the legality of the Agreement leading to a court case in the Irish Supreme Court that ruled 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. 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 NI waters within the 0-6 mile limit.
55. In the Republic of Ireland, in April 2019, the Sea Fisheries Amendment Act came into force. That enabled Northern Irish vessels to access Irish territorial waters within the 0-6 mile limit. The Committee explored this with DAERA officials who stated:-

³¹ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillanifponipo_050320.pdf(page 7)

*'There has been this reciprocal access all the way through. It is terminology; it is a neighbourhood agreement. There is precedent for other neighbourhood agreements to be negotiated outside of the general access. Our position with the UK Government is that we would like to keep voisinage separate from the overall general fisheries agreement with the EU. They have accepted that. There does not seem to be any obstacle to us continuing with voisinage, or coming up with a separate neighbourhood agreement. Even if there is no general fisheries agreement with the EU, we do not believe that that would preclude us from coming up with a new neighbourhood agreement.'*³²

56. The Committee would like to see that all efforts are made by the appropriate authorities to maintain the Voisinage Agreement and the good relations that currently exist within the fishing industries across the island of Ireland.

Lough Foyle

57. The Committee has been aware of an on-going and long running dispute between the Republic of Ireland and the UK on the ownership of Lough Foyle. This has had the consequence of the Loughs Agency that manage, amongst other matters, aquaculture licencing, being unable to exercise its powers in Lough Foyle. The result has been a significant growth in unlicensed oyster farms. The Committee Research paper noted that the number of trestles expanded from approximately 2,500 in 2010/11 to around 50,000 today. The excessive proliferation on trestles presents a very risk of disease as well as a loss of licence fees of around £20 million per year.
58. The Committee discussed this with DAERA officials, who noted that this is a matter for Department of Foreign Affairs in Dublin and the Foreign and Commonwealth Office in the UK; that the jurisdiction issue is not devolved. Nevertheless, because of concerns about the management of the Lough Foyle, the permanent secretary agreed to write to the Northern Ireland Office (NIO) at that point to ask it to raise this. The officials agreed to provide the Committee with any updates arising out of that correspondence.
59. NIMTF also touched upon this issue noting that the lack of a boundary in Lough Foyle has stalled the designation of marine protected areas at that site. It further commented that it was one of their priorities that the protected area

³² http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbill/aera_050320.pdf(page 4)

network be completed. The Committee indicated it would like to see the issue resolved urgently to allow the Loughs Agency to fulfil their statutory remit.

Migrant Labour

60. The Committee is aware of the importance of migrant labour to the fishing fleet and seafood processing sector, and that there is a reliance on the Filipino and Ghanaian labour markets. It took the opportunity to discuss this with the both ANIFPO and NIFPO, with the later remarking: -

*'I see immigration policy, as stated by the UK Government, as wholly inappropriate for the majority of Northern Ireland and for the vast majority of the fishing industry. There is no clear route for us to bring in individuals from around the world, on whom we now rely. There are some options for us to explore in gaining a route, but we have been down this road with the Government for quite some time now, and none of our options in the past has proved successful.'*³³

61. The Committee agreed that the recent points based migration policy will have an impact on both the fishing and fish processing industries.

End of Life / Abandoned Vessels

62. The Committee wishes to raise the matter of end of life / abandoned vessels that was brought to its attention by the NIFHA. In its written briefing, NIFHA made reference to: -

*'The principle of the polluter pays is well established yet there is currently no legislation which controls the disposal of end of life fishing vessels. Unfortunately, this has led to a situation where several fishing vessels have been abandoned in the Authority's harbours. This ongoing problem is generating a significant financial risk to the Authority and ultimately the Northern Ireland taxpayer as the Authority does not have sufficient funds to become the funder of the disposal of these vessels.'*³⁴

63. NIFHA told the Committee it currently had seven such abandoned vessels, that may sink in its harbours and that it would cost around £250,000 to deal with these. NIFHA remarked that if it dealt with the abandoned vessels, it

³³ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillanifponifpo_050320.pdf(page 4)

³⁴ <http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/nifha-briefing-paper--fisheries-bill.pdf>(page 3)

might create an expectation that that was part of its role. It suggested that there may be a link somehow to the licencing: -

*'When they are selling the licence, we would like that to be the time that legislation wakes up to the fact that it is the fisherman who has had the benefit of that vessel who needs to ensure that he pays for its disposal.'*³⁵

64. The Committee recognised that there is a need for this issue to be addressed and has written to the Department asking that it works directly with the NIFHA to find a solution.

Marine Conservation

65. The Committee noted that Northern Ireland does not currently have full-devolved competency for marine conservation. In giving oral evidence to the Committee, DAERA officials noted that Minister Poots has written to his DEFRA counterpart to highlight this issue and to ask that consideration be given to fully devolving marine conservation in Northern Ireland through the Fisheries Bill. The Committee expected to be fully briefed on this matter in due course.
66. The Committee have expressed concerns that there could be considerable implications for marine conservation arising out of the Environment Bill. It is aware that there appears to be cross over and interlinkages between the Fisheries Bill, the Environment Bill and the Agriculture Bill. Unfortunately, the lack of time has meant that it has not be practical or possible to explore these linkages further.
67. Furthermore, the Committee has concerns that many of the provisions in the Bill will be enacted by secondary legislation - a legislative route that provides less opportunity for scrutiny and less opportunity for amendment than primary legislation.

³⁵ http://www.niassembly.gov.uk/globalassets/committee-blocks/agriculture-environment-and-rural-affairs/2017--2022/aera_fisheriesbillnifha_050320.pdf(page 3)

List of Abbreviations and Acronyms used in this Report

EU	European Union
ICES	International Council of the Exploration of the Sea
UK	United Kingdom
NI	Northern Ireland
CFP	Common Fisheries Policy
DAERA	Department for Agriculture, Environment, and Rural Affairs
NIFPO	Northern Ireland Fish Producers Organisation
ANIFPO	Anglo Northern Ireland Fish Producers Organisation
UNCLOS	United Nations Convention on the Law of the Sea
MMO	Marine Management Organisation
JFS	Joint Fisheries Statement
EMFF	European Maritime Fisheries Fund
FMP	Fish Management Plans
NIMTF	Northern Ireland Marine Taskforce
NIFHA	Northern Ireland Fishery Harbour Authority
AFBI	Agri-Food and Biosciences Institute
HP	Hague Preference
DEFRA	Department of Environment, Food and Rural Affairs
GB	Great Britain
NIO	Northern Ireland Office

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