



MAC ADVICE

Withdrawal of the United Kingdom from the European Union

Brussels, 11 June 2021

1. Introduction

On 1 January 2021, following the withdrawal of the United Kingdom (UK) from the European Union (EU), the EU-UK Trade and Cooperation Agreement (TCA)¹ entered provisionally into force.

The agreement aims to ensure sustainability, stability and economic predictability for operators, tools to discipline fishing activities, and stable access to UK waters. The agreement allows tariff-free export of seafood, as long as businesses meet rules of origin requirements. There are also increased administrative aspects, such as food safety checks and catch certificates, processing statements, storage documents, processing statements, and re-export certificates.

The Market Advisory Council (MAC) welcomes that an agreement was reached between the EU and the UK, particularly the seafood trade and market perspective of the TCA², since a “no-deal” situation would have had a stronger negative impact on EU operators. Nevertheless, the late agreement and notice of implementation provided a very reduced timeframe for operators to adapt to previously unknown provisions. The increased administrative requirements have also translated into border difficulties and a slowdown in historic trade flows.

¹ Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

² The present advice does not cover fisheries management issues, such as access to waters and fishing opportunities.

2. Trade and Market Impact on the Seafood Supply Chain

Over many years, the seafood industry developed highly integrated supply chains with different stages of processing being carried out at scale in different parts of the EU including UK. Overall, with the new situation, the EU operators face trade disruption, increased transaction costs, reduction of market share, particularly for processors and traders, tariffs up to 25% on products from non-EU and non-UK raw materials, lack of viability of trade due to low margin, and a potential loss of employment. Although flows should be observed on a longer period, as an example, in January 2021, Spanish exports of prepared and preserved fish and shellfish to the UK decreased by 91% in volume compared to January 2020.

As the UK is no longer part of the Customs Union, the TCA contains rules of origin for fishery products. These are the EU standard rules of origin for fishery products: products must be wholly obtained, meaning caught by the EU or UK vessels. Processing of fish does not change anything in relation to their origin. Bilateral derogations apply in relation to product-specific rules for fish sticks and surimi preparations (input material can be non-originating) and in relation to specific quotas for tunas set in Annex II.

The MAC recognises that rules of origin are essential to avoid deflection of trade. Nevertheless, for products with limited supply of raw material from EU and UK sources, it can be quite difficult for EU operators to meet the rules of origin for products which were traditionally exported to the UK, such as smoked salmon or canned or marinated herring, and also for breaded products. As an example, it is estimated that 60% of consumer ready products exported from Denmark to the UK are based on imported raw materials from third countries (Greenland, Norway, Faroe Islands, Canada, Russia and China). Additionally, agreements signed by the UK with third countries that export fishery products, for example African countries or the Andean Community, include more supply possibilities, even allowing accumulation with the EU, which represents a competitive advantage for these third countries.

Following Brexit, when exporting to the UK, there are increased administrative aspects, such as food safety checks and catch certificates, processing statements, storage documents, processing statements, and re-export certificates. The general documentary completion and clearance requirements add significantly to business costs, both through direct charges and the time taken to follow new procedures. These will increase further once the UK starts applying health certification and other requirements this year.

In the beginning of the implementation, there was a very significant burden for EU operators from the increased administrative aspects, because administrative authorities were not fully ready and the necessary infrastructure was not implemented. Even after the setting up of the infrastructure, the conditions to present documents for validation varies amongst Member States, leading to more administrative work. The management of documents is not always clear, for example the function of the storage document. The administrative pressure for catch certificates and health certificates is quite time consuming, especially for the fresh seafood trade.

Products caught by EU vessels landed in UK ports are registered as imports there and must comply with administrative aspects connected to sanitary rules, catch certification and customs formalities, which represents a great administrative burden. Operators also face the application of different interpretation and criteria across UK ports. Therefore, EU vessels face an administrative burden that affects the quality of the seafood products and the earnings of the shipping companies involved, which translates into the increasing avoidance of UK ports.

3. Brexit Adjustment Reserve

The Brexit Adjustment Reserve is an instrument in the Multiannual Financial Framework that aims to support Member States and private sectors to counter the unforeseen consequences of Brexit. The measures are to be identified by Member States, while the Commission will ensure that the measures clearly relate to counter the adverse impacts of Brexit. Measures that can be

covered by the Reserve comprehend support to economic sectors, including those dependent on fishing activities in UK waters; support to employment; and ensuring the functioning of border, customs, fisheries control, certification and authorisation regimes for products, communication, information and awareness raising for citizens and businesses. Measures must comply with EU law and national law, including State aid rules.

The MAC welcomes the Brexit Adjustment Reserve, since it provides essential support to operators for their loss of activity and income. There should be clarity and transparency in how the support is articulated, in the choice of beneficiaries, in the selection of measures, and the applicable state aid rules. It is important to ensure swift agreement in the allocations between Member States and in the affected sectors, in order to ensure a timely distribution of support by public authorities with a low administrative burden. A specific legal basis, outside the existing state aid framework and EMFAF, might be needed.

The range of measures should be sufficient to face the needs of the seafood supply chain, such as (temporary) compensation for additional administrative costs for EU-UK trade, improvements to the speed and logistics of fresh/live trade, finding a solution for the import of live bivalve molluscs from UK production areas classified as B health zones³, ensuring sufficient raw material for the processing industry, and assistance for efficient groupage trade. Depending on the implementation of the Reserve, additional support instruments might be needed at a later stage.

4. Regulatory Framework

Following Brexit, the UK has regulatory autonomy in several areas that can impact the trade of seafood products, such as labelling, consumer information, and marketing standards. Current UK legislation on these matters is in line with the EU legislation, but this is expected to deviate, as

³ On 14 April, the MAC adopted advice on the import of live unpurified bivalve molluscs from the United Kingdom, which is available online: <https://marketac.eu/en/mac-advice-uk-unpurified-molluscs/>

both the UK and the EU review their legislative frameworks.

The development of a disharmonised regulatory environment could be harmful to the EU industry, since it can translate into the establishment of technical barriers to trade. Equivalence mechanisms on sanitary standards might be appropriate in some cases. While taking into account the regulatory autonomy and the EU's efforts, under the European Green Deal and the Farm to Fork Strategy, to promote a sustainable food system, it is also important to monitor regulatory developments in the UK and to cooperate to avoid major and unjustified regulatory divergences in the long-term. Cooperation on global issues, such as social and labour rules, is also important to ensure a level-playing-field. For certain products, the harmonisation of marketing standards on a voluntary basis via international standardisation tools could also be advantageous.

5. UK's Overseas Countries and Territories

Following Brexit, the UK Overseas Countries and Territories (OCTs) are no longer associated with the EU, so these are no longer covered by the EU OCT association decision and trade preferences. The EU industry, particularly the Spanish industry, faces tariffs on fish sourced in the UK OCTs, such as squid and hake. It is important to ensure the supply of raw material and to study the negative impact on the EU's processing industry. The solution could potentially be found in adjustments to the ATQs Regulation to allow adequate supply. Adjustments to the ATQs Regulation should be thoroughly studied on a case-by-case basis, while also taking into account the EU fleet's production capacity.

6. Specialised Committee on Fisheries

As foreseen under the TCA, a Specialised Committee on Fisheries will be established, whose role will include, not exclusively, preparing for annual TAC consultations, providing a forum for consulting on compensatory and remedial measures in the event of non-compliance, developing guidelines to support the application of the TCA in respect to fisheries, and developing a

mechanism for voluntary in-year transfers of fishing opportunities.

At present, the role, composition, and functioning of the Specialised Committee on Fisheries is not entirely clear. It is important to ensure that the Specialised Committee has a broad and balanced representation of public and private stakeholders, including a link with the Advisory Councils. There should be coordination for contributions and participation by the Advisory Councils as well as reporting on its functioning.

7. Recommendations

In summary, following Brexit, in the context of the trade and market impact on the seafood supply chain, the MAC believes that the European Commission should:

- a) Assess the impact of Brexit on EU operators, including trade disruption, increased transaction costs, market share, tariff costs, viability of operations, and employment;
- b) Consider the potential need for additional bilateral derogations on rules of origin for specific products, especially those traditionally exported to the UK;
- c) Urgently review the functioning of the new administrative procedures with Member States and, when appropriate, bilaterally with the UK, in order to ensure coherence in the interpretation and implementation of administrative, logistical, and sanitary requirements as well as lower administrative burden on operators;
- d) In relation to the Brexit Adjustment Reserve, ensure clarity and transparency in the aid provided, while also encouraging a swift adoption and allocation of support where genuinely needed as well as a low administrative burden, plus the adoption of measures that meet the needs of the seafood supply chain;
- e) Monitor regulatory developments in the UK and cooperate to avoid major and unjustified regulatory divergence in areas that impact the seafood supply chain, such as labelling, consumer information, and marketing standards;



- f) Taking into account that UK OCTs are no longer associated with the EU, analyse the negative impacts to the EU industry and undertake measures to allow adequate supply of raw material for the industry;
- g) Clarify the role, composition and functioning of the Specialised Committee on Fisheries, while ensuring broad and balance representation of stakeholders, including cooperation with the Advisory Councils.