

## **SCOTTISH FISHERMEN'S FEDERATION – Written evidence (EEH0015)**

### INTRODUCTION

1. The SFF is a democratically constituted industry group set up in 1973 and its key aims are:
  - To preserve and promote the collective interests of the Scottish Fishermen's Federation constituent associations.
  - Ensuring a viable and sustainable future for the fleet in terms of both economics and environmental responsibility.
  - Working to improve the perception of the fishing industry, attracting new entrants and ensuring professional standards of training and safety.
2. We have eight constituent associations within the Federation, with over 400 vessels within their membership, representing a wide range of fishing businesses, both inshore and offshore and catching a wide range of fish and shellfish species. The value at first landing of the Scottish fishing industry in 2019 was just under £0.6 billion. Scottish vessels account for 60% of value and 62% of landings of all fish caught by UK vessels.

### ASSESSMENT, IMPACTS AND CHALLENGES OF THE FISHERIES HEADING OF THE TCA

3. In terms of the fisheries element of the TCA, the provisions of the agreement are very disappointing. They fall well short of what could have been achieved and fail to capitalise on the opportunity presented by the UK's departure from the EU Common Fisheries Policy, under which the UK had a very poor settlement. They also fall far short of the commitments that the Government made to the industry.
4. There were three main priorities for SFF from the Brexit negotiations – to control access to the UK's Exclusive Economic Zone (EEZ), to secure a fairer share of quota allocations based on zonal attachment and for the UK to conduct annual negotiations with the EU on fishing opportunities as sovereign equals. SFF sought a framework fisheries agreement similar to the EU's long-standing agreement with Norway. Throughout the negotiations, the Government consistently supported these ambitions, and we understand they formed the basis of their negotiating position.

5. Taking each of these priorities in order:

#### Control of access to the UK's EEZ

6. Since the 2016 referendum, SFF consistently made clear that controlling access to the UK's EEZ was central to the UK securing the opportunities presented through its newly found status as an independent coastal State. The EU fishing fleet is highly dependent on access to UK waters, fishing many times more in our waters than the UK fleet does in theirs.
7. SFF was consistent and clear to Ministers and officials that controlling access should be our greatest lever – the ace in the pack. We were also clear that controlling access did not mean that the EU fleet would not have access after the end of the transition period, but that their access should be negotiated on an annual basis, essentially in the same way that the EU does with other coastal States – Norway, the Faroe Islands, for example.
8. Ministers were equally consistent in their assurances and commitments to industry that the UK would have full control over access to our fishing waters. It was hugely disappointing therefore to find that the TCA falls very far short of these commitments. Firstly, the TCA establishes an 'adjustment period' of five and a half years, to mid 2026, during which time the EU fleet has full access to the UK's EEZ.
9. This concession threw away every advantage that our new status conferred. Every piece of leverage available to the UK through controlling access to our sovereign resources was conceded. This was then compounded by the dismal outcome on the reallocation of quota shares – to see paragraphs 14-22 below.
10. Yes, the UK fleet has reciprocal full access to the EU's EEZ during the adjustment period, but the UK fleet relies much less on their waters than they do on ours. The EU fleet fishes five or six times more in UK waters than we do in theirs, so reciprocal full access for five and a half years confers far greater benefit to the EU than it does to the UK.
11. At the end of the adjustment period, in mid 2026, the TCA makes provision that either Parties may make changes to the level of access, i.e. the UK (or the EU) could decide to reduce, limit or remove access for the other party to its waters. This would be the basis of any normal coastal State relationship, but in the case of the TCA, a suite of compensatory measures would then apply. The party whose access is reduced or removed could then remove the TCA's

preferential tariff treatment on fishery products. So if the UK chose to reduce or remove the EU fleet's access to UK waters after the end of the adjustment period, the EU could apply tariffs to UK fishery products being exported to the EU. SFF understands that this would also include fishery products produced through aquaculture, so drawing into scope a much wider range of products.

12. Furthermore, the EU could apply compensatory measures based on the economic and societal impact of any reduction in its access to the UK EEZ. It is almost impossible at this stage to estimate what these could amount to. Nonetheless, we must focus on the levers, powers and penalties that could be applied at the end of the adjustment period when the UK could choose a different path.
13. The alternative is that the UK is trapped in an enduring arrangement where the EU benefits enormously from full access to the UK's valuable fishing waters, and the UK has no negotiating capital with which to lever better quota shares in our own waters. Essentially, unless and until the UK decides to exert full control over our EEZ, we are an independent coastal State in name only. We know of no other coastal State in the world that finds itself in this position.

#### Quota Shares Based on Zonal Attachment

14. Under the EU's Common Fisheries Policy, quota shares are based on a system called relative stability, which itself is based on historic fishing patterns of almost half a century ago. This bears no resemblance to the life cycle and distribution of fish. Zonal attachment is a well-established scientific approach for allocation of quota shares based on where fish are actually found and where they spend different stages of their lives. Like control of access to the UK's EEZ, it was a stated negotiating objective of the Government that the new agreement between the EU and UK should allocate quota shares on the principle of zonal attachment. SFF fully concurred with this objective.
15. For 12 of the 14 key stocks of demersal and pelagic fish of commercial importance to the Scottish fishing fleet, the UK's shares would be much higher through a system based on zonal attachment than on relative stability. It should be noted that the fisheries agreement between the EU and Norway uses zonal attachment as the basis for how shares are allocated, so the UK was not seeking anything new or novel.

16. The TCA sets out new quota shares for the UK and EU for different fish stocks. There is a gradual transition to these new shares over the adjustment period, with the greatest increase in the first year. Taken at face value, some of these figures may look to be reasonable uplifts in the UK's share, but there are important caveats to understand. Firstly, these new shares, certainly for the key commercial species come nowhere near zonal attachment, so the Government failed to deliver on a key negotiating objective. Secondly, in some cases, the UK will actually have fewer 'fishing opportunities' for some demersal species than it had under the Common Fisheries Policy, and this is because the Government failed to take the right baseline into account.
17. To address the problems of relative stability which gave the UK a disadvantageous share of the fish in our own waters, the UK was able to secure uplifts in certain stocks on a yearly basis through CFP mechanisms called International Quota Swaps (IQS) and Hague Preference (HP). Industry was clear with Government that the UK's baseline had to be not the relative stability share, but end-year outcome when IQS and HP were taken into account. Government failed to do this for several demersal species. As the UK will no longer have access to the IQS and HP mechanisms, we find ourselves worse off for some species than was previously the case.
18. The TCA does make provision for in-year exchanges of quota between the EU and UK, but these mechanisms have not yet been developed or agreed, and the Specialised Committee on Fisheries, a new body set up under the TCA, will have a role in overseeing this. It is imperative that this is progressed urgently to avoid very significant harm to our demersal sector in 2021 and beyond.
19. In addition to the clear economic advantage of having a much fairer share of the UK's sovereign resources, in line with international law, there are important fisheries management reasons for allocating quota shares based on where the resources are actually found. In mixed fisheries such as the demersal fishery in the North Sea, the consequence of relative stability is that the Scottish fleet does not have enough quota for certain species to allow the fleet to keep fishing without 'choke' occurring.
20. Choke happens when a vessel runs out of quota for one species, but it cannot avoid catching this species when continuing to fish for other species that it still does have quota for. At its most extreme, choke can cause a vessel to tie up and stop fishing simply because the allocation of quota even for one species in a mixed fishery doesn't match the abundance and distribution of that species in our waters. The new shares that have been negotiated through

the TCA fail to solve the problem of choke for several demersal species.

21. It also greatly aggrieves the industry that the Government has set out a misleading narrative on the uplift in quota shares, often referred to as a 25% increase in quota. This is manifestly not the case. The 25% figure represents the value of the what the EU was entitled to catch in UK waters based on 2019 prices. In terms of actual uplift in quota, it is estimated this is more in the region of 10% or less. When this is compared to what could have been achieved through zonal attachment – where the Scottish fleet could have, at best, doubled the fleet's catch, it is evident how very poor the outcome is. In addition, there is an element of what are often referred to as 'paper fish' in the agreement where the value in the uplift of a quota, such as North Sea sole, is largely meaningless given its historical underutilisation by the UK fleet.
22. The Government has also been disingenuous in describing the adjustment period as giving the UK time to scale up its fleet to catch the additional quota. For the reasons set out above, the increases are so small – and in some cases may result in decreases rather than increases – that the Scottish fleet will not need to expand to take advantage of what little the deal actually delivers. On the contrary, there will be some in the industry concerned for their future.

#### Annual Negotiations on Fishing Opportunities

23. The third priority for SFF – and also a core element of the Government's negotiating position – was that there should be annual negotiations between the UK and EU on fishing opportunities for the year ahead, and that these annual talks would be where access to each other's' water would be negotiated. The TCA does make provision for annual talks, but because full reciprocal access has already been conceded, there is no element of access that can be used as negotiating leverage on an annual basis. This puts the UK at a huge disadvantage, as that ace in the pack, control of access to our EEZ, has already been given away.
24. Furthermore, the TCA permits access to each other's waters even if Total Allowable Catches (TACs) have not been agreed for the year ahead, through mechanisms for provisional TAC setting that will again disadvantage the UK and dilute further our already limited negotiating capital. We are already seeing this play out, as the talks between the EU and UK for 2021 are currently underway.

25. In stark contrast, the UK is now able to hold meaningful bilateral annual negotiations with other coastal States such as Faroe and Norway. These are possible because the fisheries agreements reached between the UK and these countries reflect more normalised relationships between two independent coastal States, where access and fishing opportunities are negotiated annually.

### Regulatory Autonomy

26. The matters described above were the SFF's – and indeed also the Government's – priorities for securing a fairer share of the resources in our waters than was the case under the CFP. The preceding narrative here aims to describe how these were not achieved, and how the Government failed to deliver on the commitments it had repeatedly made to the industry.
27. Despite that hugely disappointing outcome, and one which badly constrains the industry's ambitions for the future, there are some benefits from the TCA, primarily the provisions allowing each party to have regulatory autonomy in its own waters.
28. This means that the UK can now start to move away from many of the impractical, inflexible and disproportionate technical rules and regulations of the CFP, and can start to design a regulatory approach for fisheries management in our own waters. These measures must be non-discriminatory, so if the UK, or any part of the UK as fisheries management is a devolved competence, decides to set certain rules and requirements for fishing in our waters, then these rules must apply equally to both UK and EU vessels.
29. This is one area where we see scope to build a better system for the future, and one where the powers within the Fisheries Act 2020 will be critically important for government and stakeholders to co-create a proportionate fisheries management system based on recognised principles of better regulation and meeting the fisheries objectives of the 2020 Act.

### Summary

30. Overall, the TCA delivers a very poor outcome for the fishing industry. Certainly for the adjustment period to mid-2026, the Government has failed in all three core elements of its negotiating objectives – control of access to our EEZ, quota shares based on

zonal attachment and annual negotiations on access to waters and fishing opportunities. It is particularly galling that the Government has presented these outcomes as a success. They are not.

31. There is the prospect of taking a different approach at the end of the adjustment period, but this comes with what appear to be very punitive sanctions and penalties. Essentially the UK would be penalised for exerting its rights under international law, in ways that no other independent coastal States are.
32. That is not to say however that we shouldn't take this path. We need to use the time of the adjustment period to work with governments to understand fully the consequences of the TCA that they have agreed. Failure to take a different approach and to use fully the legal powers that we have as an independent coastal State mean we will be trapped in perpetuity in another disadvantageous and damaging relationship on fisheries with the EU.
33. It may on paper be a relationship of sovereign equals, but in reality, the handcuffs of the TCA will mean that the UK will not reap the benefits that an independent coastal State should. This was an opportunity lost, at least in the short term. The work starts now to understand what may be possible in the longer term to salvage a better future from this very poor deal, but one that is likely to still fall far short of what was possible and indeed promised.