

## **Professor Richard Barnes, The Law School, The University of Lincoln, Chris Williams, New Economics Foundation, and Griffin Carpenter - Written evidence (EEH0033)**

EU Environment Sub-Committee on the UK-EU Trade and Cooperation Agreement  
This evidence relates to the fisheries aspects of the Trade and Cooperation Agreement (TCA). The authors are providing independent evidence based on their research.

### **Personal Statements**

1. Richard Barnes is a Professor of International Law at the University of Lincoln. LLB (Hons) (Dundee), LLM (Cantab), PhD (Hull). My area of expertise is law of the sea, with particular interest in the governance of marine resources.

2. Chris Williams is an associate fellow at the New Economics Foundation (NEF). Chris is a published author in Marine Policy, Environmental Scientist and Human Geography and has been working on fisheries resources management problems and coastal communities since 2004. Chris is a Research Associate at the University of York Environment

3. Griffin Carpenter is an environmental economist working as an independent consultant. His expertise lies in the socio-economic dimension of European fisheries and quota management policies. He holds a BA in Philosophy, Political Science & Economics (Wilfrid Laurier University) and an MSc in Environmental Policy & Regulation (LSE).

### **Summary of Key Points:**

- The most important issue facing the industry at present is quick and low-cost access to the EU market. All available steps need to be taken to alleviate non-tariff burdens, including ensuring close alignment of regulatory standards for catch and seafood processing (para 28).
- Increased UK quota is unlikely to be available under the TCA. The link between access and trade, combined with compensatory mechanisms means that quota increases could only come at a cost to preferential trading rights (paras 3, 9-11).
- The EU and UK must resist pressure to increase fishing levels to offset any unfairness in the division of quotas. Cooperation between the UK and EU is required to ensure sustainable fishing levels (paras 4 and 29).
- The UK could unilaterally adjust levels and conditions of fishing access for EU vessels, but this will expose the UK to effective compensatory measures by the EU. Retaliatory measures are quick, robust and provide the affected Party with powerful means to press the defaulting Party back into compliance with the terms of the deal (paras 15-19).
- Despite promises to review the domestic distribution of quota, quota gains under the TCA alone will not enable better distributional outcomes among the UK fishing fleet and will likely skew the divide between the over 10m and under 10m fleet further (paras 12-14).

- The Specialised Committee on Fisheries will enjoy considerable power to shape the management of fisheries. As such, it is essential that its membership composition reflects or can engage transparently and meaningfully with stakeholders. It is essential that there is Parliamentary oversight of the Committee's activities, especially the introduction of legally binding Decisions (paras 25-27).

## Quota Increase

4. Fishing has featured significantly in the Brexit discussion over the past several years and the resulting UK-EU Trade and Cooperation Agreement (TCA) is no exception. Given the widespread disappointment in the catch sector to the settlement on fishing quotas, it would be desirable if the UK could leverage an increase in catch quota beyond what is set out in the TCA. However, this is unlikely for both legal and political reasons. Legally, the deal fixes quota for the foreseeable future, and whilst a renegotiation of this may be possible, it is unlikely to be a runner in political terms. Exceeding the agreed quotas would result in overfishing of stocks and would add further risks and harm the long-term future of the fishing industry as well as the public interest.

5. *Cooperation between the UK and EU is required to ensure sustainable fishing levels.* The UK and the EU will continue to share access to waters as a result of the TCA. Even in the event of a hard marine border between the two parties, the UK and EU would still need to agree on how much of a particular fish stock can be safely harvested each year each side will catch. For example, of the 55,725 tonnes of a North Sea cod, only 14,755 tonnes can be harvested and that needs to be split between the parties (including Norway). If each party just fished what they felt they were entitled to then the shares would exceed 100% of what could be sustainably fished, and the stock would decline leaving less available for all parties. The shared nature of fish stocks inevitably requires cooperation.

6. The current share of quotas, termed 'relative stability' in the Common Fisheries Policy, was based on catches from 1973 to 1978. The UK has long felt that this approach is not to the benefit of the UK and has proposed an alternative method of dividing quota shares based on the proportion of fish stocks residing in each party's waters, termed 'zonal attachment'. It is not clear the TCA secured any realignment of quota in line with zonal attachment. Shares of the TAC are set out in fixed until at least 2026 Annex Fish 2. It appears that the TCA envisages that some quota shares can be adjusted, but the process for doing this is restricted. For example, FISH13(3) recognises that quota shares for stocks regulated under ICCAT and NAFO can be adjusted according to agreement reached in those fora. Also, FISH13(4) states that changes to the shares Annex FISH.2A and B stocks (i.e. stocks shared by UK/EU/Norway and select coastal State stocks) after 30 June 2026 are a matter for the relevant *multilateral fora*. This forum is not specified, but it would need to be outside the TCA institutions because agreement must involve Norway and Norway is not party to the TCA. It is expected that this would eventually take place under some form of trilateral arrangement between the UK/Norway and the EU. Crucially, there is no reference to the adjustment of stocks in Annex Fish.1. This Annex contains the bulk of commercial stocks and it is this division of quota that impacts most upon the UK fleet.

7. According to the TCA Summary, 'The Agreement provides for a significant uplift in quota for UK fishers, equal to 25% of the value the EU catch in UK waters. This is worth £146m for the UK fleet phased in over five years.' While the calculations for these figures have not been released, £146m representing 25% implies EU landings of £584m in UK waters. According to the data from the Marine Management Organisation, this figure is higher than the long-term average of EU landings from UK waters, but within the range.<sup>1</sup> The change in quota shares is being phased in over a five-year period from 2021 to 2025 with most of the change in the first year (60% of the change in 2021 and 10% each of the following four years).

8. Annex FISH.2 of the TCA list the new quota shares between the UK and the EU. These quota shares are expressed as percentages of the division between the UK and the EU that sum to 100% (the total quota may also include shares for other countries like Norway, Iceland, the Faroes, and Russia). The new quota shares have created some confusion as they indicate the new quota shares from 2021 to 2025 (40% of the total change) but do state the current shares and the change from 2020 to 2021 (60% of the total change). The total change in quota shares, expressed as the change in terms of percentage points (i.e. the absolute change) and relative change is displayed in Table 1. While the calculations for estimating the increase in quota shares reaching £146m after five years, or 25% of the value of the value the EU catch in UK waters, have not been released, Table 1 converts quota shares into landed weight and landed value using the most recent estimates of quota uptake (i.e. how much is actually caught) and first sale prices. The results of this calculation are close to the £146m but only if all quota was caught. Of the increase in value across 56 fish stocks that undergo a change, 41% comes from just one mackerel stock. Some stocks like cod in the English Channel do not undergo any change at all despite the UK fishing industry prioritising them as one of the largest differences in current and expected quota shares.

---

<sup>1</sup> The 2020 Marine Management Organisation report, United Kingdom commercial sea fisheries landings by Exclusive Economic Zone of capture 2012-2019, notes that from 2012-2016 the EU landed £307-711m per year from UK waters with an average of £493m.

**Table 1: Change in UK fishing quota shares and estimated changes in landed weight and value**

Common Name	UK share 2020	UK share 2025	Change (percentage point)	Change (relative)	Change in quota weight (tonnes)	Change in landed weight (tonnes)	Change in quota value (£)	Change in landed value (£)
Mackerel (Western)	58.32%	69.20%	11%	19%	40,030	40,759	47,862,867	48,733,971
Sole (North Sea)	4.28%	17.00%	13%	297%	2,230	1,310	25,614,467	15,045,938
Herring (North Sea)	24.09%	32.32%	8%	34%	18,997	19,007	9,943,104	9,948,075
Anglerfish (7)	17.98%	23.38%	5%	30%	1,905	1,347	5,823,756	4,117,396
Megrims (7)	14.34%	21.50%	7%	50%	1,368	1,250	3,583,749	3,275,546
Saithe (North Sea)	16.73%	26.00%	9%	55%	3,535	3,255	3,512,999	3,235,121
Hake (North Sea)	18.02%	53.55%	36%	197%	1,400	1,241	3,410,696	3,024,264
Anglerfish (West of Scotland)	30.77%	44.50%	14%	45%	1,094	970	3,344,911	2,966,602
Nephrops (7)	32.80%	42.00%	9%	28%	1,546	864	5,186,866	2,898,421
Hake (Western)	17.97%	20.80%	3%	16%	1,792	1,161	4,365,122	2,829,472
Cod (North Sea)	46.92%	57.00%	10%	21%	1,231	1,111	3,122,875	2,817,458
Anglerfish (North Sea)	81.37%	89.52%	8%	10%	1,148	844	3,509,382	2,580,097
Horse Mackerel (Southern North Sea & Eastern Channel)	11.27%	40.00%	29%	255%	3,280	2,716	2,486,231	2,059,096
Haddock (Celtic Sea)	10.00%	20.00%	10%	100%	1,142	1,024	1,721,363	1,543,546
Pollack (7)	17.44%	25.00%	8%	43%	920	509	2,419,727	1,338,109
Turbot and Brill (North Sea)*	15.46%	20.00%	5%	29%	312	154	2,685,601	1,328,836
Herring (Irish Sea)	73.97%	99.01%	25%	34%	2,019	1,992	1,056,839	1,042,360
Megrims (West of Scotland)	31.37%	44.35%	13%	41%	766	379	2,006,942	993,637
Whiting (North Sea)	66.92%	73.53%	7%	10%	1,017	723	1,292,301	917,921
Blue Whiting (Northern)	19.81%	21.00%	1%	6%	3,884	3,779	851,820	828,906
Sole (7FG)	28.15%	32.33%	4%	15%	70	62	809,770	713,407
Lemon Sole and Witch (North Sea)*	61.09%	66.00%	5%	8%	333	179	1,287,509	690,234
Herring (Southern North Sea & Eastern Channel)	9.33%	12.35%	3%	32%	1,280	1,240	670,139	649,029
Haddock (Rockall)	80.61%	85.00%	4%	5%	459	371	692,405	558,979
Sole (Western Channel)	58.86%	62.50%	4%	6%	54	48	617,403	549,612
Skates and Rays (Western)	25.84%	31.01%	5%	20%	526	467	565,307	502,049
Saithe (West of Scotland)	42.37%	51.00%	9%	20%	633	486	629,529	482,534
Mackerel (North Sea)	5.33%	6.60%	1%	24%	407	393	487,175	469,441
Ling (Western)	33.83%	38.00%	4%	12%	508	297	798,498	467,041
Haddock (Irish Sea)	47.91%	56.02%	8%	17%	256	224	385,997	337,979
Sandeel (North Sea, All Banks)	2.06%	3.20%	1%	55%	2,604	1,097	698,824	294,554
Sole (Eastern Channel)	19.23%	20.00%	1%	4%	21	18	245,813	203,582
Blue Ling (Western)	19.22%	25.00%	6%	30%	622	205	602,526	198,713
Ling (North Sea)	76.96%	80.00%	3%	4%	129	113	201,949	177,089
Plaice (English Channel)*	29.09%	30.00%	1%	3%	105	79	181,608	137,514
Whiting (Celtic Sea)*	9.29%	11.27%	2%	21%	215	102	273,427	129,413
Whiting (Irish Sea)	38.70%	61.00%	22%	58%	161	90	204,264	114,367
Plaice (7FG)	21.96%	26.26%	4%	20%	99	65	171,144	112,596
Herring (West of Scotland)	60.40%	66.47%	6%	10%	211	195	110,520	101,888
Sole (Irish Sea)	21.01%	23.30%	2%	11%	10	7	120,391	80,878
Skates and Rays (North Sea)	64.77%	69.00%	4%	7%	74	68	79,016	72,892
Sprat (English Channel)	52.52%	84.00%	31%	60%	474	276	121,027	70,402
Cod (Celtic Sea)	3.98%	10.24%	6%	158%	50	27	127,926	68,287
Cod (Irish Sea)	28.79%	44.80%	16%	56%	41	26	104,346	65,028
Small-eyed Ray (7fg)	26.04%	55.51%	29%	113%	57	51	68,417	61,883
Cod (Rockall)	60.81%	75.01%	14%	23%	11	10	26,653	26,280
Whiting (West of Scotland)	64.46%	65.91%	1%	2%	14	15	17,245	19,387
Spurdog (Western)	37.04%	46.16%	9%	25%	25	9	45,277	17,418
Undulate Ray (English Channel)	24.79%	35.00%	10%	41%	24	15	27,171	16,609
Norway Pout (North Sea)	0.00%	25.00%	25%	infinite	16,250	78	3,411,026	16,373
Skates and Rays (Eastern Channel)	15.06%	15.79%	1%	5%	11	10	11,546	11,225
Saithe (Celtic Sea)	13.66%	15.00%	1%	10%	42	7	42,141	6,776
Plaice (7HJK)	11.94%	17.91%	6%	50%	4	3	6,938	5,867
Tusk (Western)	28.17%	30.00%	2%	6%	22	5	18,427	4,555
Cod (West of Scotland)	60.28%	81.21%	21%	35%	268	0	678,990	0
Haddock (North Sea)	84.17%	84.17%	0%	0%	-1	-1	-1,960	-1,641

Total	115,684	90,732	148,340,001	118,957,016
-------	---------	--------	-------------	-------------

Source: Calculations by Griffin Carpenter (Environmental Economist). Current share based on Council Regulation (EU) 2020/123. Prices from Marine Management Organisation, 2020. Uptake from FIDES, 2020. Notes: (Porcupine Bank) removed as it is a sub-quota of Nephrops (7). No price is available for UK landings of BFT so the price of BFT landings from Northeast Atlantic fleets was used from STECF, 2020.

9. As long as the UK remains a party to the TCA, it will be required to engage in annual consultations with the EU about the setting of TACs for stocks in Annex FISH1. FISH 6(3) states that 'The Parties' shares of the TACs for the stocks listed in Annex FISH.1 shall be allocated between the Parties in accordance with the quota shares set out in that Annex'. Allocation of quota shares is mandatory and tied to Annex Fish.1. The division of TAC shares in the Annex FISH.1 is specific for the next 5 years and at

the end of the adjustment period, described as '2026 onwards'. This indicates that the level of quotas (and corresponding access to waters) is fixed going forwards. FISH6 permits changes to the TAC, but this does not include changes to the respective shares of the TAC. It is possible to argue that Annex FISH1 only sets quota shares until the end of 2026. However, this would be a difficult argument to make because it runs counter to the ordinary reading of the text. The use of the term 'onwards' means that the level of catch at 2026 will continue as long as the agreement remains in force or until the Parties agree to change the terms of the agreement. It also runs counter to the wider objective of stabilizing fishing and trading rights after an adjustment period.

10. Legally, it is open to the UK to seek to revise parts of the TCA – through the Partnership Council. However, this seems unlikely in the absence of a significant change in policy as regards the UK's wider trading relationship with the EU. Since fishing is embedded within a wider trade framework, enjoyment of preferential trading arrangements under the TCA will depend upon the continuity of fishing arrangements under the Fisheries Heading. If the UK sought to renegotiate aspects of the fisheries settlement, it would face the same difficulties it experienced in late 2020 when finalising the trade-related aspects of the deal with the EU. The only situation where this might emerge was if there was a significant change in the natural condition and distribution of stocks that required a more fundamental rethink of quota shares than could be achieved through shorter-term management measures such as adjustments to TACs and quota swaps.

11. There is no provision that supports any unilateral changing of quota beyond 2026. The TCA envisages that each Party may unilaterally notify the other Party of changes to the level and conditions of access (FISH8(5)). However, this is subject to retaliatory and remedial measures under the TCA. My reading of the TCA is that a direct breach of the duty to provide quota shares in accordance with Annex FISH.1 would result in the affected Party being able to take remedial measures under FISH16.

### **Distribution of Domestic Quota resulting from the TCA**

12. How quota shares are distributed to the fleet at a national level was always national competency. One of the most controversial aspects of UK quota management in this regard was the share of quota made available to under 10m vessels that constitute the majority (77%) of the UK fleet but fish only a small amount (2%) of the quota. Due to their smaller size, the under 10m vessels target some species more than others. Of the large mackerel gain, the under 10m vessels will receive 1%, while the nearly 40% share of cod in the English Channel allocated to under 10m vessels does not increase under the TCA. This finding of larger gains for quotas with a small under 10m share and smaller gains for quotas with a large under 10m share holds in general (Figure 1).

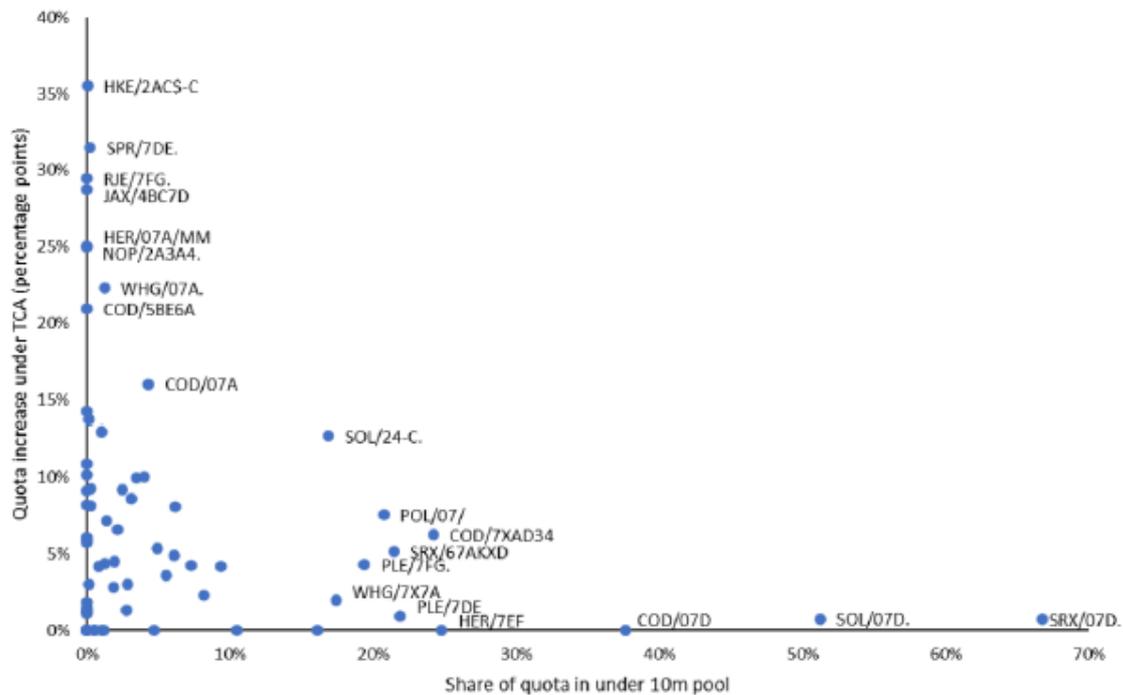


Figure 1: Quota increases under the TCA and share of quotas in the under 10m pool  
 Source: Calculations by Griffin Carpenter based on MMO, 2018.

13. As such, the quota gains by themselves will not lead to better distributional outcomes among the UK fishing fleet and will likely skew the divide between the over 10m and under 10m fleet further. Another important division in the UK fleet with respect to TCA changes is that much of the UK fleet uses pots, traps, and dredges to target shellfish species which are not managed under quota (with the exception of Nephrops).

14. The UK Government and all national fisheries administrations have stated their intent to change quota allocations post-Brexit under the new UK Fisheries Bill. This has the potential to shift the previous results. However, it does not change the fact that most of the quota gains were for stocks that the under 10m fleet has little interest or ability to target. In addition, the government has committed to keeping the current allocations in place in the further and only changing allocation for any new quota that was gained through the TCA. As yet, no change in policy has been announced for the 2021 fishing quotas or beyond.

**Changes to EU/UK Quota Shares and Retaliatory Measures.**

15. There is a distinction between compensatory measures (FISH9) and remedial measures (FISH14). One way of looking at this is to view compensatory measures as related to changes to the enjoyment of access rights, whereas remedial measures relate to a more serious denial of rights. However, the former can escalate into the latter, so should be regarded as part of system of checks and balances. As a general observation, any disputes arising in respect of the TCA are to be resolved according to the TCA dispute settlement arrangements. This precludes resort to the WTO or another international tribunal. The retaliatory measures are quick and robust, and

provide the affected party with powerful means to press the defaulting Party back into compliance with the terms of the deal.

16. *Compensatory measures* can be taken unilaterally in response to a notification by the host party of any changes to the level or conditions of access to fishing in its waters. Compensatory measures include suspending access to waters and preferential trade tariffs for seafood products. The retaliatory measures must be 'proportionate' to the changes or conditions of access. The TCA requires such measures to be commensurate with the economic and societal impact of the changes. Any such impact must be measured on the basis of reliable evidence. And not conjecture or remote possibility. Economic impacts will be easier to measure since they would encompass the market value of reduced catch as a result of changes to the level of access. However, it is not clear that this would include indirect losses arising from a change to access/levels of catch, such as loss of profits. Societal impacts are more difficult to measure. This could entail indirect changes to employment conditions (e.g. as a result of labour standards or manning requirements), restrictions on traditional fishing techniques, landing requirements that impact on port facilities and working patterns/supply chains. Some indication of the kinds of safeguarding measures parties are prepared to take may be divined from any measures taken under Article 16 of the Northern Ireland Protocol.

17. There are procedural conditions on how and when compensatory measures can be taken, but it is worth noting that a party does not have to wait until actual loss are suffered. So compensatory measures can be used as a way of pressing the other party to restore any change to the level or conditions of access. Compensatory measures cannot be maintained once the reasons for introducing them have been removed. The Parties shall seek a mutually agreeable solution to the taking of compensatory measures through the Fisheries Specialised Committee. The host State may also seek a ruling from the arbitration panel as to the conformity of compensatory measures adopted by the fishing party.

18. *Remedial Measures* are measures that can be used by one party against the other, if the latter party fails to comply with its obligations under the Fisheries Heading. In short, these are an escalation of the compensatory measures under FISH.9. This permits in addition to measures on access and seafood products, the suspension of preferential tariffs on other goods, and more seriously, the suspension of trade in goods more generally.

19. Although the quota shares are fixed in the TCA Annex Fish1, there is scope for transfer of shares of the TAC between the parties on an annual basis (FISH6(4)(a)). The means by which this is done is not specified but it could include exchanges for a fee or as part of a quota swap. This is limited to an annual adjustment, so has no longer-term impact on quota shares.

### **Role of the Specialised Committee of Fisheries**

20. The Specialised Committee on Fisheries (SCOF) is an entirely new body to be created within an entirely new institutional framework. As such it is difficult to comment on how it might function. Some key issues are likely to arise simply by observing its working mandate. The TCA establishes an institutional framework that will develop and work through the implementation of the TCA. As such, many of the issues the present enquiry is investigating (i.e. quota changes, retaliatory measures,

and resolution of other issues) will be influenced through these developing institutional processes. The Partnership Council provides high level political oversight and direction. It also has authority for review and amend aspects of the TCA. Given the fundamental link between fishing quota/ access on the one hand and trade on the other, it is likely that some issues arising in a fisheries context will be referred up to the Partnership Council. More mundane implementation issues are left to the specialised committees. As the Council only meets once per year, the specialised committees will be the main forum for working through issues.

21. It is important to note that the *SCOF cannot amend the provisions of the TCA or its Annexes*. Only the Partnership Council may amend Annexes FISH1, FISH2 and FISH3, which set out the respective shares of each stock during the transitional period and beyond (FISH16(3)). There is no express power to amend Annex FISH4, which deals with access to waters. Similarly, the Partnership Council is charged with reviewing the Fisheries Heading of the TCA (FISH18(3)), although the Specialised Committee may recommend matters to the Partnership Council for review (FISH18(4)(g)).

22. The *working practices of the SCOF* are flexible and this will allow it to adapt to its developing role. The SCOF is to be co-chaired by UK/EU representative. Meeting agendas and schedule to be set by mutual agreement. Procedure for the working of the committee is set out in ANNEX INST but may be adapted by individual committees. This flexibility is important.

23. *Powers of the SCOF* are set out in INST.2(4). and FISH.16. INST.2(4) sets out the broad powers for the all the TCA specialised committees. Although the powers of the SCOF are set within the TCA, any such powers must still be exercised in accordance with wither international law commitments undertaken by the UK and EU in the field of fisheries and protection of the marine environment. For the SCOF, these powers include monitoring and reviewing the Fisheries Title, assisting the Partnership Council in its work (including fulfilling any delegated responsibilities), and establishing Working Groups. It is important to note that the SCOF can issue binding Decisions and non-binding Recommendations on fisheries matters (INST.4). Decisions and Recommendations are reached by mutual consent. They can be adopted at or between meeting (using a written procedure). Given this will impact on the rights and responsibilities of individual fishermen and business, this has implications for law-making and scrutiny as a matter of domestic procedure.

24. FISH.16 sets out 14 areas of responsibility. This encompasses matters of both policy (e.g. development of conservation and management strategies/preparations for annual TAC consultations) and regulatory decision-making (agreeing compliance measures). Some process for transposing agreed measures into domestic law will be required. The use of the phrase 'may in particular' suggests that the list of functions is not exhaustive. Given the complexity of fisheries management and the importance of coordinating and regulating activities across diverse sectors of the industry in multiple jurisdictions, the SCOF will have a busy mandate, and one would expect it is set up dedicated Working Groups to consider and advise the SCOF on issues such as compliance and enforcement, coordination of scientific advice, stakeholder engagement, landing controls, and strategic development and planning. SCOF should draw widely upon expertise from across industry, academia and the third sector to support these activities.

25. This operation of the SCOF gives rise to *two main concerns: composition and scrutiny*. Two of the most significant criticisms of the CFP related to a lack of engagement with industry and a lack of direct accountability for decisions reached under the CFP. It is absolutely critical that the new institutional arrangements do not become detached from the interests of key stakeholders.

26. First, the SCOF must represent a legitimate cross section of interests that will be impacted by its mandate. This is essential for building trust between regulators, industry and other groups. Membership of the SCOF is not detailed, other than that it comprises representatives of each party with appropriate expertise. Given the SCOF's flexible working practices, it is possible (and desirable) that membership could vary according to the issues under discussion (INST.2(5)). It is anticipated that membership will be drawn initially from relevant areas of civil service. However, given the importance of engaging key stakeholders, some independent scientific expertise and industry representation is desirable. Invariably, the SCOF and other committees will become subject to lobbying and other external influences, so it is desirable from a transparency perspective that the input of stakeholder views and advice is regularised/formalised as far as possible.

27. Second, it is vital that the mandate and decisions of the SCOF are subject to effective external accountability and political scrutiny. This will happen both within the EU and the UK. In the UK, it would make sense for such matters to come before Parliament's relevant select committees or sub-committees. However, some degree of coordination and overarching scrutiny may be required given the many issues (e.g. fishing access and trade) intersect.

### **Trade and Other Challenges Arising from the TCA in Respect of Fisheries**

28. A number of key issues are likely to arise in respect of fisheries management under the TCA. First, and most important concerns the need to reduce or mitigate barriers to export. Export problems have been well documented throughout January. Some are attributable to a lack of experience with the new processes and will be mitigated over time and through investment in border infrastructure and facilities. However, some are an inevitable consequence of leaving the single market and customs union and so having to meet pre-existing requirements for goods entering the EU from outside (e.g. catch certifications, health certifications and border inspections). The [prohibition on live shellfish exports](#) is an example of how vulnerable some sectors of the fishing industry are to non-tariff restrictions. The only way to remove these barriers to trade will be to re-enter the single market/customs union. Assuming this is not going to happen, the viability of the fishing industry in large part depends upon measures to mitigate the impact of non-tariff barriers and delays to exporting seafood products to the EU. This means continued work on harmonising customs systems, data and reporting requirements, as well as ensuring broader regulatory alignment over fish catch standards and seafood products to ensure facilitate smooth exporting to the EU. In the event that such measures are not taken, market pressure will drive undesirable practices from a UK economy perspective, such as the direct landing of catch in the EU, with a devastating downstream impact on ports and fish processing facilities. For example, processing employs c19000 people, with a turnover of +£3billion. Whilst direct EU landings may be an option for larger commercial fishing vessels, it is not an option for inshore vessels or smaller operators, who will continue to be disadvantaged by export difficulties.

29. Second, given that the UK has the power to develop its own fisheries and marine environmental regulations, there is the realistic prospect of different and potentially incompatible approaches operating in UK and EU waters. One such example is the ban on bottom trawling recently announced for Dogger Bank and South Dorset. This will impact on conditions of access for vessels to such waters, as well as the pursuit of common environmental standards for ecosystems that straddle UK and EU waters. It seems inevitable that such issues will be increasingly channelled, debated and resolved through the SCOF. Despite regulatory autonomy of each party, some degree of cooperation will shape the development of such decision going forward.

30. Third, given the disappointing outcomes of the deal for many sectors both within the UK (e.g. inshore / under10m fleets (as outlined above) in the Southwest, English channel and southern North Sea (and indeed some EU sectors), there is likely to be increased pressure to offset this through the setting of TACs beyond scientific advice (i.e. to compensate for a small share of the cake by increasing the size of the cake). It is absolutely critical that the process for agreeing the TACs for shared stocks does not yield to short-term political pressures to increase catch levels.

31. Finally, the TCA does not deal with the question of quota allocation within the UK. However, this may give rise to issues under the TCA since changes to quota distribution or vessel ownership requirements under domestic law may impact upon the interests of EU controlled vessels and fishing activities. The SCOF is a forum where such issues could be raised on behalf of affected parties. A significant proportion of UK quota (FQA) is held by UK registered vessels under foreign ownership. Changes to domestic quota allocations and fishing vessels registration requirements (e.g. to strengthen the economic link with the UK) would not be subject to retaliatory measures under the TCA since this is purely a matter of domestic fisheries management. However, this does not exclude the strong probability of legal challenge under domestic law if such changes were introduced.

32. Foreign ownership of UK fishing vessels further complicates the picture of UK quota gains. For some quotas – particularly in certain fisheries in England and Wales – the level of foreign ownership is high with some essentially Dutch or Spanish operations only keeping the UK flag for registration purposes as quota cannot be sold internationally. While some of the larger quota gains, for example Norway pout and North Sea sole have significant levels of foreign ownership, there is no consistent trend. In total, at least 22% of the quota gains will be allocated to foreign owned UK vessels. The UK government has stated that it will be increasing the licencing requirements for UK vessels. As yet, no change in policy has been announced for the 2021 fishing licences or beyond.