



Report of the Brexit Focus Group 19th September, 2019

**Hotel NH Brussels EU Berlaymont
Karel de Grotelaan 11/19
1000 Brussels
Belgium**

Rapporteur: Sara Mynott

1. Welcome and Introductions

- 1.1 Niels Wichmann (Danish Fishermens Producers Organisation) opened the Brexit Focus Group and welcomed everyone to the meeting. He noted that the Focus Group (FG) has been in planning for some time, and that the NSAC have been waiting for a signal for how Brexit will play out. Wichmann gave a particular welcome to Joost Paardekooper and Erik Lindebo (European Commission) who would be providing an update on Brexit preparedness during the meeting.
- 1.2 An apology was given for Jonny Hughes (Pew Charitable Trusts), who was unable to attend the meeting.

2. Appointment of Focus Group Chair

- 2.1 Niels Wichmann proposed that Pim Visser (VisNed) be elected as Chair of the Brexit Focus Group. Visser confirmed he was willing to chair the Group and was elected by all present. He thanked Wichmann and other members for their confidence.
- 2.2 Visser then passed to Joost Paardekooper to provide an update from the Commission before outlining the rest of the agenda.

3. Background information – an update from the Commission

- 3.1 Joost Paardekooper took the floor, and stated that the AC was likely to already know much of what he would share. The 1st November is a key date. At that point, there

will be either a no-deal Brexit, an extension, or a ratified Withdrawal Agreement in place. Paardekooper outlined the broad impacts of each:

- Withdrawal Agreement:
In this scenario, there would be a transition period, during which the UK would stay under the Common Fisheries Policy (CFP), as it does now, with the exception that it would no longer be involved in decision-making processes (the UK would be fully consulted). Paardekooper pointed at how an orderly withdrawal might play out and noted that the period of transition, set to extend until 2020, might be reconsidered (he emphasised that this is speculation and added that this discussion is very speculation prone, given the uncertainty of the situation).
- Extension – further delayed Brexit:
The UK remains a fully-fledged member of the EU, so an extension to Brexit would mean an extension of the EU membership. Under these circumstances, nothing changes – except the need to prepare for the new date for the UK's exit of the EU.
- No Deal:
On 1st November, if there is a no-deal Brexit, then the EU will be confronted with the UK as an independent coastal state under UNCLOS. Paardekooper stressed that under this scenario there will be a 'world of change.' He shared that the no-deal scenario would mean many different things for fisheries.

- 3.2 Under a no-deal scenario, Paardekooper highlighted that over 100 stocks (each 'stock' in this instance is a TAC, rather than a stock as traditionally defined) would change from exclusive Union stocks to bilaterally (and some trilateral, with Norway) shared stocks, shared between the Union and the UK. Under international obligations, the UK and EU would have to pursue joint, sustainable, management. He added that it is good to bring to mind the 'magnitude of the challenge' ahead.

Paardekooper explained that the Commission has moved from building on the Withdrawal Agreement approach, to considering contingency plans and the possibility of a no-deal Brexit. This means that there is a significant possibility that the UK will become an independent state and could potentially decide to close its waters on 1st November. He underscored that what will happen on 1st November is unclear, and that the Commission has been working closely with EU Member States to develop appropriate management measures for no-deal.

- 3.3 With a no-deal Brexit, significant EU fleet access to UK waters will potentially be lost. Paardekooper emphasised that, under a no-deal scenario, EU waters, for instance the Channel, will be much more crowded than now as EU fleets would need to withdraw from UK waters. This may lead to increased pressure not only on stocks but on the fishing activity already in situ. Paardekooper highlighted that while the UK will face a similar problem, the scale of the issue is greater for EU fleets – 'we are talking about thousands of vessels, about 3,000 throughout the year.'

The Commission have tried to identify hotspots of displacement and deal with fisheries management problems proactively and, together with the Member States, the COM has been discussing temporary cessation for some of the fleet, to combat overcrowding in EU waters. With this in mind, the European Maritime and Fisheries Fund (EMFF) has been changed to allow for financial compensation for Member States that have to keep fishing vessels in port. He added that the amendment was introduced earlier in the year (ahead of 29th March) and 'is an important instrument' that we may need to use.

- 3.4 Joost Paardekooper shared that, even if the UK leaves under a no-deal situation, retaining as much stability as possible would be important – and one scenario would be when the UK continues to give EU vessels access to UK waters for the remainder of 2019. Provisions have been made to facilitate this (mechanism to request and issue fishing authorisations). Paardekooper noted that these provisions were adopted for 2019 only, given that it is a temporary measure, and suggested that they may need to be re-run in 2020. He stressed that 'we don't want to run the risk of not being ready for that possibility'.
- 3.5 Joost Paardekooper noted that observed changes in the individual and collective behaviour of fishermen helps to identify what might happen in a no-deal scenario. He emphasised that all involved 'want to stay as calm as possible' when facing the challenges ahead.
- 3.6 Paardekooper shared that there have been no discussions between DG MARE and the UK concerning fisheries during the ongoing negotiation process. He said 'it was decided that potential partial deals are not considered as they may obstruct the process of ratifying a Withdrawal Agreement.'
- 3.7 Pim Visser thanked Paardekooper for his very comprehensive overview of the situation, then opened the floor for comments from members.
- 3.8 Barrie Deas (National Federation of Fishermen's Organisations) commented that there has been a fair bit of speculation in the press about the UK's ability to police its waters and noted that there is potential for tension in a no-deal scenario – especially in the Channel. He said 'it is in all of our interests to stay calm and my assessment is that there will be mutual access at some sort of level.'

Deas said that, in a situation where there is illegal fishing in either waters, the repercussions would be similar to those faced if found illegally fishing in Norway, whereby vessels are placed on a list that prevents them accessing waters in the future. He highlighted that jurisdictional changes may be an issue for fishermen, if the consequences of non-compliance are not understood. He identified the consequences of illegal fishing on future fishing activity as a particular concern. Deas emphasised that making these consequences clear would reduce the risk of people disregarding access regulations.

Paardekooper agreed with Deas. He said that it is clear that there is a need for the UK and EU to seek to work together on this, as there is an obligation to pursue joint management, although there is no legal definition of what the outcomes of that management should be under UNCLOS.

This means that while countries should pursue joint management, there is no legal obligation under UNCLOS to deliver results of those efforts.

Paardekooper noted that a trade instrument was developed following the mackerel wars – for use when non-EU fishing nations employ unsustainable fishing practices. This instrument, which is very confined, could possibly be considered in certain circumstances in the future as well.

- 3.9 Joost Paardekooper added that the European Fisheries Control Agency (EFCA) is working with Member States to ensure that, control-wise, EU vessels live up to the rules, and also to ensure enforcement of the access to waters. He stressed that Member States and stakeholders are being made aware that illegal fishing activities may have ramifications for the future. He stated that with the removal from the EU IUU list is not easy, once placed on it
- 3.10 Mike Park (Scottish Fishermen’s Federation) remarked that he hadn’t been aware of the size of the pressure on the EU side for access to waters. He added that assessing what the UK want and what the EU are willing to give up ‘leads to an interesting discussion’ when it comes to negotiating access. Park noted that there are pressures on all sides and thanked Paardekooper for being frank.
- 3.11 Pim Visser stressed that it is important to explicitly communicate the consequences of being on the illegal fishing list to fishermen.

4. Terms of Reference

- 4.1 Pim Visser opened the discussion on the draft terms of reference (*‘Terms of Reference joint proposal by MCS, Client Earth, Dutch Elasmobranch Society and Pew’*), emphasising that the Terms are not just about the process of Brexit, but the process of engagement beyond it. Tamara Talevska highlighted that the document is a starting point, put forward by the Other Interest Groups.
- 4.2 Samuel Stone (Marine Conservation Society) introduced the Terms of Reference (ToRs), stating that the overarching objective should be to develop consensus advice. He added that the ToRs would benefit from additional detail, ideally added within the day’s meeting. Stone drew particular attention to shared management arrangements and the need to consider how they would operate (who, how, where etc.) as well as the need to consider potential dispute resolution platforms or bodies.

The main aims detailed in the draft document are listed below for reference:

1. Possible formal post-Brexit fisheries stakeholder engagement platforms and mechanisms for the North Sea under different shared stock management scenarios.
2. Possible shared stock management approaches, including in the context of the future relationship between the UK and EU.
3. Possible approaches to dispute resolution mechanisms.

There was some confusion regarding whether the terms sought to inform ongoing negotiations associated with Brexit. Samuel Stone (Marine Conservation Society) and Irene Kingma (Dutch Elasmobranch Society) clarified that the ToRs do not seek to inform Brexit negotiations.

- 4.3 Pim Visser thanked Stone for the introduction to the drafted terms. He noted that the points are ‘academically relevant,’ but expressed disagreement with the first point and questioned the relevance of the second two to the NSAC’s remit. Caroline Gamblin agreed with Visser on the second point, stating that it would be difficult to address at this stage.
- 4.4 On the second point (possible shared stock management approaches), Samuel Stone said he was under the impression that the NSAC would have an opinion on how interactions between the UK and EU would operate. He queried when this should be addressed.

Irene Kingma emphasised the importance of being proactive in the face of uncertainty. She drew reference to the Choke Focus Group, stating that in this case the NSAC saw a need to start the discussion, despite the likely difficulty in achieving consensus. She suggested the same applies to this FG. She expressed concern that there is ‘unwillingness’ to talk about how the relationship between the UK and EU might evolve going forwards.

Sarah Denman (ClientEarth) expressed agreement with Stone and stated that the importance of an over-arching agreement for fisheries management is absolutely vital, including shared approaches for illegal, unreported and unregulated (IUU) fishing. She added that ‘the time is now,’ and if the NSAC can contribute anything towards this goal, it should.

- 4.5 Pim Visser stated that not all of the UK-EU issues post-Brexit will be within the NSAC’s competence, which is to engage on issues that affect the North Sea.

Mike Park questioned how the NSAC can be part of ‘a wider body’ and legitimately inform the Commission. He added that the AC is a useful forum for discussion, but opportunities for more formal discussion around future North Sea management mechanisms are limited.

Irene Kingma suggested asking the Commission what it wants from the NSAC under current circumstances. She highlighted the importance of the AC in providing Brexit-relevant advice, adding ‘if Brexit is not within our remit, then the same should apply to the Landing Obligation.’

- 4.6 Joost Paardekooper referred back to the points raised by João Aguiar Machado (Director General of DG MARE) in the NSAC General Assembly meeting (earlier the same day). He said Machado explained the Commission’s vision for the future – in which there would be a seeking of a common approach to fisheries management. Paardekooper added that there should be a modern agreement, which allows for access to each other’s waters. This would include agreement on how stocks are shared and agreement on management approaches. He said that the agreement would need to be ambitious in its pursuit of sustainability and would ‘build on 35

years of co-operation.’ Paardekooper emphasised that the UK has been a strong player in pursuing sustainability and this is likely to continue given the signals we receive.

While there may be differences in the management approaches taken by the UK and EU going forwards, Paardekooper highlighted that it would be good to have some kind of coordination. He added that the Commission still hopes to pursue a jointly coordinated approach and that communications from the UK have been interpreted in the same direction. He described this approach as one containing the principles of the CFP with different ‘flavours’ added.

- 4.7 Paardekooper shared that – out of 140 stocks in the Atlantic and North Sea – around 100 stocks are going to be managed in the bilateral relationship and, with that in mind, there may be a need to reconsider how ACs function. He explained that, when the EU set up the AC for the North Sea, ‘we explicitly chose not to integrate Norway.’ He added that it was not supposed to be an AC for negotiations, but a means of addressing current topics, such as TAC-setting and multi-annual plans.

Paardekooper said the value of the AC has not disappeared, but nor has it evolved. He emphasised that there is a need for a body that advises the Commission, post-Brexit, stating ‘we will likely want to have your input for how we are going to negotiate (e.g. on annual TAC-setting) – how we are going to defend your stakeholder interests.’

- 4.8 Paardekooper outlined that while the UK Government may take advice from UK stakeholders and the Commission may take advice from Member States, there is also a role for doing this together. He stated that it is important to have discussions without the other side present to establish consensus, but also to have joint discussions to move forwards.
- 4.9 He suggested that the AC focuses on what is most relevant to fisheries management, citing the interpretation of ICES advice during negotiations (considering the theoretical and practical aspects) as an example.
- 4.10 Mike Park expressed concern that such a formal coalition could operate in a way to advise the Commission, he suggested something more fluid might be beneficial. He suggested that informal discussions between stakeholders could be reported to the AC via members, which would add an extra ‘filter’ and ‘additional security’ for the Commission. Paardekooper expressed agreement, stating that if all stakeholders go to their own leaders, managers and negotiators with the same story then that is the biggest chance of success – ‘the strongest signal for us to take it on board.’
- 4.11 Pim Visser made apologies due to a need to leave the meeting early, handing over to Kenn Skau Fischer (Danish Fishermens Producers Organisation) to Chair the remainder of the meeting.
- 4.12 Emiel Brouckaert (Rederscentrale) considered current circumstances to be ‘a chicken and egg situation.’ He said that knowing what the management is going to look like is important, but it is difficult to come up with something ahead of what is

going to happen in November. He asked whether fisheries management discussions could start.

Paardekooper shared that the Commission is prepared to start fisheries negotiations at any moment. He commented that the Focus Group are considering 'very short term' changes, such as the composition of the AC in the next few months. He emphasised that the AC may want to look at the reshaping of the NS and NWW ACs in light of the changes associated with Brexit in order to enable long-term joint management.

- 4.13 Barrie Deas stated that the conversation has been helpful, particularly in knowing that continued advice from stakeholders will be wanted. He said that the big decisions will not be made in the Parliament or Council, but through bilateral – and possibly trilateral – negotiations between parties. Deas added 'I see the value of this as a kind of information exchange, but it would be remiss to be more ambitious than that at this stage.' There are questions around how this will be facilitated and whether it can be given more formal structure over time – and the potential to bring in Norway as well.
- 4.14 Guus Pastoor (AIPCE) shared that he would be very surprised if the UK were to change its drive for sustainability, stating 'it has been a market driver for sustainability for some time.' He proffered that with this drive for sustainability, there will be a number of things that would be common to the EU, UK and Norway, including stakeholder consultations. He added that the AC has never been involved in negotiations, except to provide information to the Commission to make their position stronger. Pastoor suggested that the AC's goal should be to develop principles for sustainable management, as determined by stakeholders, and the NASC could help interpret these into actionable points for negotiation. He said that it is too early now to say how this group will function with the UK.
- 4.15 Irene Kingma asserted that when confronted by change and faced with uncertainty, the NSAC should provide advice, including recommendations regarding how stakeholders will engage. She underscored that ACs are set up to give advice and queried 'what are we doing here if we are not going to produce advice and exchange information?'. Kingma emphasised that what the AC strives for is for transparency.
- 4.16 Samuel Stone shared that 2-3 years ago, when the NSAC started to discuss the Brexit FG, the aim was to produce constructive 'recommendations that could cut through the politics.' Stone said that recommendations from the AC could be considered during negotiations and 'it would be a shame if we don't try' to put something together.
- 4.17 From the Chair, Kenn Skau Fischer summarised that more work on the ToRs for the FG is needed and that it was not possible to conclude discussions on the remit of the Group at the day's meeting. He suggested that any ideas concerning the ToRs are sent to the Secretariat before the end of October and said that the document will need revisiting at the next meeting.

Samuel Stone suggested it would be worth raising the ToRs with the Scheveningen Group to see what they would want. Kenn Skau Fischer highlighted that there is

uncertainty around the UK's involvement in the group and agreed that the issue merited further discussion.

- 4.18 Guus Pastoor underscored the need to prepare for Brexit, but questioned whether a focus group was needed. He suggested it may be better to cover Brexit-related issues in the Ex Com, given that most members of the Focus Group are Ex Com members and Brexit affects everyone.

Kenn Skau Fischer expressed agreement with Pastoorbut emphasised that a Focus Group has now been established. He advised again that any written comments on the ToRs should be sent to the Secretariat. Fischer suggested all further agenda items should be retained for consideration at the next meeting.

- 4.19 Kenn Skau Fischer thanked Joost Paardekooper for his insight and noted that it is always a pleasure to have him at meetings.

5. Date and time for next meeting

- 5.1 Kenn Skau Fischer stated that the date and time for the next meeting will be set following comments on the ToRs being sent to the Secretariat. He added that while the NSAC won't set a date just yet, 'we may need to act swiftly' and asked members to be ready to act flexibly.

Emiel Brouckaert stated that the next meeting and ToRs will need to be addressed ahead of 31st October and Fischer was in agreement.

6. Actions

ACTION	RESPONSIBLE
Send comments on the Terms of Reference to the Secretariat by 31 st October (4.17, 5.1).	Members Secretariat
Finalise the date of the next meeting by 31 st October (5.1).	Secretariat
Table the following items for the next meeting (carried over from this meeting's agenda): <ul style="list-style-type: none"> Agree structure and content of advice Task allocation and agree timelines 	Secretariat

7. Attendance

LAST NAME	FIRST NAME	ORGANISATION
Brouckaert	Emiel	Rederscentrale
Carruel	Guillaume	Pelagic Advisory Council

Deas	Barrie	National Federation of Fishermen's Organisations
Denman	Sarah	ClientEarth
Andersen	Svend-Erik	DFPO
Fischer	Kenn Skau	DFPO
Gamblin	Caroline	CNPMEM
Grossmann	Jenni	ClientEarth
Kingma	Irene	Dutch Elasmobranch Society (NEV)
Lindberg	Fredrik	Swedish Fishermen's Federation
Lindebo	Erik	European Commission
Macdonald	Paul	Scottish Fishermen's Organisation
Mynott	Sara	Mindfully Wired Communications
Paardekooper	Joost	European Commission
Park	Mike	Scottish Fishermen's Federation
Pastoor	Guus	AIPCE
Ronelöv Olsson	Peter	Swedish Fishermen's Federation
Stone	Samuel	Marine Conservation Society
Symons	Despina	EBCD
Talevska	Tamara	NSAC Secretariat
Visser	Pim	VisNed Dutch Fisheries Organisation
Voisin	Mathilde	EBCD
Wichmann	Niels	DFPO