

**LDAC recommendation**  
**on the Post-Brexit (re)positioning of the European Union**  
**towards the Northeast Atlantic fisheries negotiations**

**Coordinator: LDAC Secretary**

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**Based on Input received from EUROPECHE and PEW**

**Rationale**

**Developing European Union's core principles for fisheries negotiations in the Northeast Atlantic**

Brexit created a new situation for fisheries management in the Northeast Atlantic (NEA), shifting the governance framework with changes in the balance of powers and in the relative positioning of Coastal states and fishing nations. It is essential that the EU redefines its own position and core principles during the bilateral, trilateral and multilateral dialogues with those coastal states who are collectively responsible for the management of economically and ecologically important demersal and pelagic stocks like NEA cod, saithe, mackerel, blue whiting or Atlanto-Scandian herring, amongst others.

**Objectives**

Although this shift to a new situation creating governance paradigm is a big challenge for the EU, it needs to be seized as an **opportunity for the EU for revising its conservation and sustainability objectives** that drive current fisheries management and ecosystem approach in northeast Atlantic waters. The EU and other Parties' responsibilities for conservation and sustainable joint management of fish populations must take priority in the negotiations on fisheries because healthy stocks and fish populations are the source of viable and even profitable fisheries in the medium and long term.

Taking into account what was explained above, the LDAC considers the following objectives as key and the core negotiation principles must be instrumental in reaching these goals:

1. To protect and strengthen the position of the EU as a fishing coastal state in the Northeast Atlantic which allows the EU to protect the legitimate socio-economic interests and historical rights of the EU fleets active in the Northeast Atlantic;
2. To contribute, from a position of strength, to environmental sustainability taking into account the legitimate socio-economic and historical interest of the EU fleet, in which effective fisheries management of shared stocks in the Northeast Atlantic region can be developed and agreed upon based on scientific advice.

## Decalogue of Principles

The present LDAC recommendation aims at formulating ten core principles of the EU in light of the new post-Brexit reality in the Northeast Atlantic and international commitments taken by both the EU and the Coastal States involved. These 10 principles should serve as the basis for setting the guidelines for the European Commission when negotiating arrangements for demersal and pelagic stocks with Coastal states and in the context of NEAFC:

1. **Implementing an ecosystem-focused approach:** In addition to maximising long-term sustainable yields, the EU must cooperate with other Coastal states to conserve biodiversity and ecosystem health, considering the impact of fishing activity on both fish populations and on the whole ecosystem. Likewise, environmental pressures, such as climate change, that account for changes in the state of the ecosystem must be explicitly addressed as they have a direct impact on the distribution of fish populations and on their management.
2. **Implementing a precautionary approach:** As defined by the United Nations Fish Stock Agreement<sup>1</sup> (UNFSA, 1995), when the available data and information are uncertain, unreliable or inadequate, decision makers should engage in more cautious management, and a lack of scientific certainty cannot preclude management action. Similarly, the failure to agree relative shares in pelagic fisheries, and resulting overfishing, demands a more precautionary approach to TAC-setting. However, any TAC setting decision must be made on a multilateral basis and binding to all parties concerned ensuring level playing field and avoiding unilateral action from other countries.
3. **Multi-annual management** should be the underlying principle by default. Although details will need to be revisited regularly, all stakeholders benefit from agreeing to and working toward long-term sustainable management objectives. That includes stable sharing arrangements, long-term management strategies that include harvest control rules for setting catch limits, a robust monitoring and evaluation scheme, a periodic review process, and any necessary mechanisms to transition from previous arrangements to a new system.
4. **Participation of all stakeholders and transparency of decision-making.** The EU should convince other Coastal states to make the current Coastal States negotiations process more inclusive and transparent. The process should be consistent with the obligations and rights under the [Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters](#)<sup>2</sup> (Aarhus Convention, 1998). Management proposals, negotiations and decisions should be made transparently, with access guaranteed for all stakeholders, including the fishing industry, civil society organisations and other interested parties. In addition, citizens of the EU and of other coastal states involved must be able to scrutinise management decisions. The joint management measures, the scientific advice underpinning them and the positions of the different parties involved must be made available and actively disseminated to those interested in reviewing them.

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<sup>1</sup> [UN, Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks](#)

<sup>2</sup> [UNECE, Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters \(Aarhus Convention, 1998\)](#)

## **5. Role of the Council**

5.1. The EU should seek to redefine the mandates given by the Council to the European Commission taking into account the regional aspects based on those given for the Brexit negotiations for all Northeast Atlantic Coastal States' negotiations.

5.2. The EU Council should be directing and leading the preparation, formulation and approval of fisheries negotiations. Therefore, it would be advisable for the Council to provide a higher level of detail in the mandate. Likewise, the Council should play a more proactive role in monitoring and supervising the negotiation process conducted by the European Commission.

## **6. Linkage to market**

6.1. The EU must ensure that fisheries negotiations with other coastal states in the Northeast Atlantic - bilateral or multilateral - are not taken as a stand-alone exercise. Implicitly and explicitly, the EU should make it clear that fisheries negotiations with the other coastal states have to be seen as directly and consequently linked with the wider negotiations on trade and market access.

6.2. The EU is globally the largest and most attractive import market of seafood and must use its market strength to protect the interests of its fishing fleet and to prevent and deter coastal states from breaching their commitments or agreements.

6.3. Link to EEA Agreements:

The Financial Mechanism for the EEA has traditionally separated market access from access to fish resources and fishing grounds. However, as constantly and successfully been argued by the European Union during the Brexit negotiations, trade agreements with neighbouring third countries must have a direct link with negotiations on fisheries access, and therefore cannot be disconnected. This is based on the principle of reciprocity in international relations and treaties. Fisheries must therefore be placed more centrally in the EEA financial mechanism and implementing Protocols since its role and presence is almost negligible under the current mandates.

## **7. Level playing field**

7.1. The EU should seek a level playing field between the EU fishing industry and the fishing industry of the other coastal states in the management of NE Atlantic fisheries, in particular in terms of non-discriminatory treatment in fisheries management and in investment/foreign ownership opportunities. The EU might use its market power to influence this process.

7.2. The EU must work on reciprocal free access to waters, ports, business ownership, investments and services based on the principle of reciprocity enshrined in international relations and treaties. At this moment EU nationals can only own a minority share in a fishing company in Norway, Faroe Islands and Iceland, whereas a Norwegian, Faroe or Icelandic national can fully own EU fishing companies. Such imbalanced situations must not be allowed anymore. Furthermore, the EU must prevent any asymmetric situation leading to discriminatory cases such as economic link requirements for foreign owned vessels.

7.3. In addition, fishing vessels operating in the same area should be subject to similar rules and conditions, irrespective of the flag they fly, such as the different technical measures applicable in UK and EU waters. As a different example, EU control rules will not apply to UK vessels operating in EU waters, including penalty points.

## **8. Dispute and conflict resolution**

In order to provide legal certainty to EU operators, prevent discrimination and to secure the overall credibility of fisheries agreements, the EU must put in place a fully-fledged system for dispute and conflict resolution, including the option of remedial and retaliatory measures. The EU must adopt an internal Protocol with a 'menu' of possible measures to swiftly and strongly address questions and scenarios such as the current appropriation of Spitsbergen cod by Norway or the unilateral quota increase of mackerel by coastal states threatening the state of the stock. In order to be credible and respected, it is fundamental that coastal states are aware that the EU shall use remedial and retaliatory measures in case of grievance against the EU interests. This Protocol should be used as a default system that should operate to complement the ad hoc measures established in the different international instruments or trade agreements (WTO, EEA agreement Protocol 9 or the TCA).

## **9. Science-based management**

9.1. Fisheries management must be science-based and the EU should endeavour, in collaboration with the other coastal states, to develop agreed Long Term Management Strategies for the fisheries on shared stocks as mentioned under principle 3.

9.2. With the UK's departure from the EU, the number of TACs solely managed by the EU in the Atlantic, Baltic Sea and Skagerrak/Kattegat shrank drastically to only 35 TACs (10 in the Baltic, 4 in the Skagerrak/Kattegat and 21 in the Atlantic). Against this background, even though the EU must ensure coherence between the internal and external dimension of the Common Fisheries Policy, the EU does not have the same weight in the Northeast Atlantic both in terms of the size of its EEZ and quota allocations for shared stocks. Therefore, the EU and future fisheries negotiations are strongly conditioned and subject to the decisions taken by the other coastal states. In light of the new situation, we need to find new ground rules for the consultation process.

## **10. Dedicated Directorate in DG MARE**

10.1. It is highly recommendable that a dedicated Directorate will be set up within DG MARE with clear objectives, structure and position for Northeast Atlantic affairs that would coordinate and negotiate the relevant SFPAs (Greenland), coastal states and RFMO negotiations of the North Sea and Northeast Atlantic complex.

10.2. It is also fundamental that the new Directorate ensures better coordination between fisheries, foreign affairs and trade aspects and other relevant DGs.

**END**