

CONCEPT NOTE

Impact of the Future Withdrawal of the UK from the European Union (“Brexit”) on the Composition, Functioning and Competencies of the Advisory Councils

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Background

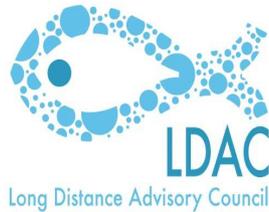
The UK decided, as a result of the outcome of the public referendum held on 23 June 2016, to officially leave the EU after almost 43 years of membership, since its accession in 1973 together with the Republic of Ireland and Denmark within the first enlargement process of the EU. This exit of the UK represents a historical feature and marks a turning point and a challenge for the economic and geopolitical balance of Europe.

In October 2016, Prime Minister Theresa May, who had assumed office following David Cameron’s resignation, announced her intention to invoke Article 50 of the Treaty on European Union, formally giving notice of Britain’s intent to leave the EU. On March 29, 2017, the order, signed by May a day earlier, was delivered to the Council of the European Union, officially starting the two-year countdown to Britain’s EU departure, now tentatively set for March 30, 2019.

Following almost 2 years of negotiations, on 14 November 2018 the lead EU negotiation team led by Michel Barnier announced that they had reached a Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

It is likely that Brexit will have a great impact both on citizens and economies in areas such as free movement of goods and workers, cooperation on security or educational and health matters. For the case of fisheries, a number of issues remain to be discussed in terms of compatibility of UK and EU policies in areas such as the implementation of the landing obligation, the MSY approach to fisheries management of stocks, access arrangements, negotiations and conclusions of bilateral and multilateral (UN process, RFMOs) agreements, amongst others.

The possibility of agreeing the transitional period until 31/12/2020 or further might allow both parties (EU and UK) to negotiate the terms and conditions for bilateral relations in relation to fisheries conservation and management measures in a post Brexit scenario, given that during this period UK will be bound by the *acquis communautaire* (EU primary and secondary law).



Relevant Issues for Discussion at the meeting

Introduction

The Advisory Councils (ACs) are EU funded stakeholder consultative bodies set up in the CFP with the aim of providing advice to the European Commission and Member States on matters pertaining the management of European fisheries. There are currently 12 ACs encompassing all relevant EU fisheries stakeholders, namely fishing sector (60%) and other groups of interest including NGOs (40%), within a scope of action defined on a regional (sea basin) or topic level.

Stakeholders' involvement and participation through the ACs in decision-making processes and governance has proven to be a highly effective mechanism in reaching the objectives of the Common Fisheries Policy and improving compliance with the regulatory framework. Since their creation, the ACs have evolved on their role and competencies, and have improved substantially the dialogue between stakeholders from different backgrounds which are able to come up with advice by consensus in most cases. The ACs have been also a useful platform to engage in dialogue and collaboration not only with national policy makers (Member State administrations) and representatives of DG MARE and European Commission but also with the scientific community (ICES, STECF) and the European Fisheries Control Agency (EFCA).

The aim of this meeting is to analyse the current functioning of the ACs with the current legislative framework as well as identifying possible future structures for the ACs as such that they remain influential and ensure the continued involvement both of UK and EU stakeholders in decision-making on a post Brexit scenario.

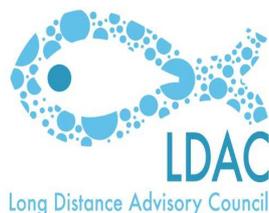
The ideas discussed and/or agreed below might serve as basis either to develop a common position or inform future debates amongst the ACs for enhancing the role and tasks of the ACs in the future process linked to the CFP Reform, subject to how negotiations with UK evolve.

1. *What would be the core functions and competencies of the Advisory Councils in a post-Brexit scenario? Definition of key areas in preparation of the future reform of the CFP:*

The purpose of this question is to deliberate on the future functioning and tasks of the ACs. One suggestion could be to consider broadening its scope of activities and mandate for the next CFP basic regulation, comprising providing advice on conservation and management measures for joint or shared stocks between EU and third countries. The EU could also consult the ACs by including them under its delegation or referring to their advice within the course of negotiations leading to NEAFC Coastal State agreements or in the context of multilateral negotiations with coastal states such as Norway or Faroe.

Ideas for core elements or "building blocks" to provide stakeholders advice:

- Regionalisation process for joint and shared fishing stocks between UK and UE:
 - o Development of Conservation and Management measures within the context of Multiannual Management Plans;
 - o Implementation of landing obligation: discard plans;
 - o Technical Measures.



- Monitoring, control and surveillance of fishing activities: SCIPS/JDPs, dedicated action plans for third countries or specific fisheries;
- Scientific advice to underpin conservation and management measures (MSY, PA...);
- International Ocean Governance issues: BBNJ, RFMOs, fight against IUU fishing;
- Horizontal issues (trade, traceability, imports, public health, food safety, etc.);
- Input to consultations on new regulations or revisions of existing regulations (e.g. Control Regulation, CFP Reform, etc.).

2. *Is the current setup of the ACs (structure) fit for purpose, adequate and relevant for a post-Brexit?*

The purpose of this question is to reflect on how the ACs should adapt their strategies after Brexit so they can remain valid and influential in the EU decision-making process. For this reason, the following elements will be analyzed:

- Weaknesses of the ACs without UK participation;
- Review of geographical remit and material scope of the ACs: suggested changes;
- Influence on collaboration with MS Regional Groups: will Brexit change their role?
- Restructuring process of the ACs: who will take charge of what?

3. *What will be the role and status of UK stakeholders in the ACs?*

In view of the Commission's reply to NWWAC letter issued on 4 September 2018 in relation to this subject matter, it seems that the UK organisations and their nationals will remain full members of the ACs until the end of the transitional period and therefore will be counted for in the 60:40 composition in the ExCom/GA. However, there might be some exceptions to participation in the decision-making processes due to conflict of interest in some deliberations related to future arrangements post Brexit.

Furthermore, there is a possibility that UK representatives both of the fisheries sector and of other groups of interest that have a fishing interest in the area covered by an AC may be invited to participate as active observers as stated in art 6.2 EC Delegated Regulation 2015/242 in line with art 2.k) of Annex III of CFP Reg 1380/2013.

4. *Wrap-up: How the future ACs should look like in a post-Brexit scenario?*

The main objective here is to consider all above discussed items and to come forward with a set of draft recommendations on governance models that could be further elaborated at a future Inter AC meeting once there is a clear idea of the Brexit outcome.

Reference material produced by the ACs in relation to the Brexit

- **NWWAC Correspondence with the European Commission on AC membership**
- **Pelagic AC questionnaire and minutes of the meeting in The Hague in May 2018**