

UK-EU Series: Trade & Cooperation Agreement Fisheries

January 2022



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UK-EU Series: Trade & Cooperation Agreement Fisheries

January 2022

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The Trade and Cooperation Agreement sets the terms for the UK-EU relationship following the UK's withdrawal from the EU. This series summarises key parts of the agreement and what they mean for Wales.

The UK formally withdrew from the EU on 31 December 2019 and entered a transition period while the terms of its future relationship with the EU were negotiated.

On 24 December 2020, the UK and EU announced that they had reached agreement on the terms of their future relationship in the **Trade and Cooperation Agreement** (TCA) alongside a number of other agreements and joint statements.

The agreement applied provisionally from 1 January 2021, pending UK and EU ratification. It entered fully into force on 1 May 2021.

The TCA follows the **Withdrawal Agreement** which set the terms for the UK's withdrawal from the EU. Both agreements remain in force.

The UK and EU have agreed that the TCA will govern future agreements between:

- UK-EU;
- UK-EU plus EU 27 Member States; and
- UK-Euratom bilateral agreements

unless otherwise provided for in the agreements themselves. These agreements are called 'supplementing agreements' in the TCA and form part of the overall framework as an integral part of UK-EU bilateral relations.

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1. Introduction

The UK and EU agreed new fisheries arrangements in the Trade and Cooperation Agreement (TCA) which form part of its provisions on trade (Part Two).

This guide explains the new UK-EU fisheries arrangements for:

- Annual negotiations
- Provisional arrangements in the event of no agreement
- Time periods
- Additional areas of agreement
- Governance and oversight

A glossary is included in Annex 1.

For more information on the new trading rules for fisheries products, see the [**Welsh Government's Preparing Wales**](#) website.

For a profile of Welsh fisheries, see Seafish's [**Introduction to the Wales seafood industry**](#).

2. Annual UK-EU fisheries negotiations

The TCA moves UK-EU fisheries negotiations to an annual cycle and sets up a new timetable of important dates throughout the year.

The TCA places UK-EU fisheries negotiations on an annual cycle. It sets the following timetable for this:

UK-EU Fisheries Calendar

31 January: UK-EU must set the schedule by 31 January for their consultations throughout the year to agree on the stocks listed in Annex 35 of the TCA. This includes stocks found in **marine zones** close to Wales, such as Irish Sea cod, haddock, herring and sole, Celtic Sea whiting and horse mackerel.

10 December: UK-EU must reach agreement on **Total Allowable Catch** (TACs) for the following year by this date. If no agreement has been reached, consultations must 'immediately resume' and the Parties must engage frequently to explore 'all possible options' to reach agreement in the shortest possible time.

20 December: If there is still no agreement reached by 20 December, provisional arrangements will apply from 1 January (exceptions apply).

3. Provisional arrangements in the event of no agreement

If the UK and EU can't agree arrangements for the following year by 20 December each year, provisional arrangements will apply from 1 January each year.

If the UK and EU can't agree arrangements for the following year by 20 December, they have agreed to apply provisional arrangements for **fishing opportunities** and **access to waters** as follows:

Fishing opportunities

Provisional TACs and shares will apply until agreement is reached in the course of the regular schedule set out above. These will correspond to the levels set by the **International Council for the Exploration of the Sea** (ICES). ICES provides scientific advice on the marine ecosystem to governments and international regulatory bodies that manage the North Atlantic Ocean and adjacent seas.

A different procedure will apply for **special stocks**.

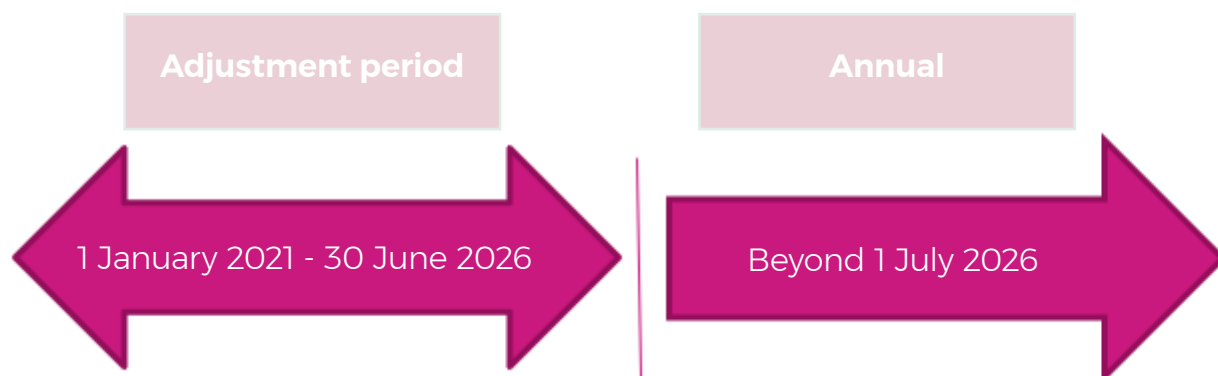
Access to waters

Provisional **access to waters** will be granted but will be calculated differently than for agreed arrangements. The duration of access also differs depending on the type of stock.

4. Two time periods: before and after June 2026

The TCA divides the new UK-EU fisheries arrangements into two time periods: before and after 30 June 2026. An 'adjustment period' is established from 1 January 2021 until 30 June 2026, during which part of the EU's quota share will be transferred to the UK. From 1 July 2026, UK-EU fishing opportunities and access to waters must be negotiated every year for the following year.

The TCA divides the new UK-EU fisheries arrangements into two time periods: before and after 30 June 2026.



Arrangements until 30 June 2026

The TCA establishes an 'adjustment period' for UK-EU fisheries arrangements from 1 January 2021 until 30 June 2026. During the adjustment period, the UK and EU have agreed to grant access to their waters and to gradually transfer part of the EU's **quota** share to the UK.

Access to waters

Fishing can take place for certain stocks (specified TAC and non-**quota** stocks) in three **marine zones** of the UK and EU Member States:

- the Exclusive Economic Zones (EEZs, between 12-200 nautical miles (nm));
- in a specified part of the waters of between 6-12nm; and

- in the territorial waters (0-12nm) of the UK's Crown Dependencies under certain conditions.

Before the end of the adjustment period, the UK and EU must inform each other of any change in the level and conditions of **access to waters** that will apply from 1 July 2026.

The TCA allows for compensation if **access to waters** is reduced or withdrawn during this time, which applies until 31 December 2026.

What does this mean for Wales?

Around Wales, the **UK's EEZ** extends northwards of Pembrokeshire around to North Wales in the Irish Sea and southwards from Pembrokeshire towards the Celtic Sea and North Atlantic Seas. The UK's EEZ around Wales borders Ireland's marine territory and is administered by the UK or Welsh governments, depending on whether an activity is within reserved or devolved competence.

Closer to shore, the specified parts of Wales' waters between 6-12nm are along its southern coastline in the Celtic Sea and Bristol Channel. The zone covers an approximate area from St David's Head in Pembrokeshire around to Chepstow in Monmouthshire. Qualifying EU vessels will continue to have the same access as on 31 December 2020 and must have fished there for four of the five years between 2012-2016.

The UK Government has **published information** showing the rights of vessels from different EU Member States. For example, qualifying French vessels can fish **demersal species**, such as sole and plaice, in specified areas of the Bristol Channel.

The Welsh Government is responsible for fishing, fisheries and fish health in **the Welsh zone**, for which the Senedd also recently gained full legislative competence in the **Fisheries Act 2020**.

Transfer of EU quota to the UK

During the adjustment period, the equivalent of 25% of the value of EU **quota** in UK waters will be transferred to the UK and **distributed among the UK's four nations**. This transfer is not explicitly stated in the TCA itself, rather it can be calculated using the quota transfer tables for the adjustment period in Annex 35.

What does this mean for Wales?

According to **the UK Government**, it has worked closely with the Welsh Government to develop a final method for apportioning additional quota transferred to the UK from the EU.

However, it acknowledged that its UK-wide method adopted for 2021 'would not deliver the desired outcomes for parts of the Welsh fleet.' As such, **it committed** to ensuring that the Welsh Government receives a minimum uplift in their priority stocks, where the final method would not otherwise deliver this.

Beyond 2021, the **UK Government has** advised that it will evaluate how well 2021 arrangements have worked and look to make improvements. They added that there will also be further consultation in future on options for 2022 and beyond.

Arrangements from 1 July 2026

From 1 July 2026, UK-EU **fishing opportunities** and **access to waters** must be negotiated every year for the following year.

The UK and EU must agree on **fishing opportunities** before agreeing **access to waters**. A degree of predictability is required by the TCA, so that negotiations should 'normally' produce similar results each year.

By this time, 25% of the value of EU **quota** will have been transferred to the UK, which will form a new starting point for negotiations.

5. Additional areas of agreement

The UK and EU made a number of other commitments in the TCA of relevance to fisheries. These are varied and important aspects of UK-EU fisheries arrangements which the Welsh Government must follow.

The UK and EU also agree:

- i.** To abide by international law, including its principles and a number of treaties;
- ii.** Not to apply measures to each other's vessels that it does not apply to its own vessels;
- iii.** To take all necessary measures to ensure that their own vessels comply with the rules of the other Party in its waters;
- iv.** To notify each other of any new measures which are likely to affect each other's vessels before they are applied and within sufficient time to be able to seek clarifications or provide comments;
- v.** To set up a mechanism for voluntary in-year transfers of **fishing opportunities** to take place annually. Using this mechanism, the UK and EU will also consider transferring **fishing opportunities** for underfished stocks to each other at market value; and
- vi.** Their shares for other types of stocks, for example, stocks which involve other countries or international fora, such as UK-EU-Norway shared stocks. Subsequent changes to these requires agreement of various countries and international fora.

What does this mean for Wales?

The remaining parts of the new fisheries arrangements will require that the Welsh Government:

- monitors and ensures it complies with international legal principles and the list of international agreements included in the TCA, which can be changed by the committee overseeing this part of the Agreement, the Specialised Committee on Fisheries.
- does not apply measures to EU vessels that it does not apply to its own

vessels using its powers under the UK-wide Fisheries Act 2020;

- ensures that Welsh vessels comply with EU rules when in the waters of EU Member States;

- makes regulations, or consents to UK Government regulations, which create new measures that are likely to affect EU vessels. A recent example of the impact of this provision on Wales can be found in the **Common Fisheries Policy (Amendment) Regulations 2021**, which made changes to domestic and foreign licence conditions in the Celtic Sea area of Welsh and English waters;

- to be engaged with future in-year transfers of fishing opportunities where it affects Welsh fisheries or impacts devolved competence;

- to be engaged with future fisheries negotiations affecting other states and international fora in order to monitor their impact on Welsh fisheries and devolved competence.

6. Governance and oversight

In the TCA, the UK and EU agreed to establish new joint governance mechanisms to oversee their new arrangements. This will be overseen by a UK-EU Specialised Committee on Fisheries. It will oversee mechanisms for UK-EU fisheries disputes, review processes and the option to terminate the new arrangements.

The new UK-EU fisheries governance mechanisms are shown below:

Disputes: The UK and EU can take proportionate remedial measures against each other if one alleges that the other has failed to comply with the agreed fisheries arrangements. The measures can take effect in 7 days. The UK/EU can suspend access to waters and the preferential tariff treatment granted to fisheries products for trade. This can extend to other goods if they believe that the measures already taken aren't enough to compensate for the alleged breach. If they still believe that this isn't enough, they can suspend all or parts of UK-EU trading arrangements under the TCA (except for the Level Playing Field provisions). If this is done, UK-EU cooperation on road transport is also suspended. The Party allegedly in breach can request an arbitration tribunal to be set up in 14 days to resolve the matter.

Specialised Committee on Fisheries: This is a new UK-EU body and is one of eight Specialised Committees supporting the Partnership Council which oversees the TCA. The Specialised Committee on Fisheries can carry out additional activities in its field, such as preparing for the annual fisheries negotiations.

Termination: The UK and EU can terminate their fisheries arrangements at any time via a written notice. This option will also terminate UK-EU arrangements on trade, aviation and road transport, 9 months from the date of the notice. An option is available to keep the aviation arrangements, providing the Level Playing Field provisions are applied to some of them.

Review: The UK and EU must review the fisheries arrangements by 30 June 2030 and every four years after that.

7. Annex 1: Glossary

Access to water

All states have rights to use the waters of coastal states for certain activities. For example, all states have rights of navigation and overflight, and the operation of ships, aircraft, submarine cables and pipelines.

However, other states fishing in a coastal state's waters must comply with its terms and conditions, such as its regulation of seasons and areas of fishing, licensing requirements and determining which species may be caught.

Exclusive Economic Zone (EEZ)

A zone in the sea measured from 12-200 nautical miles from a state's coast, where geography allows. In this area, a coastal state has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living in the water, seabed and subsoil. In exercising its rights, a coastal state must have due regard to the rights and duties of other states and must act in accordance with the **United Nations' Law of the Sea Convention 1982**, which establishes **marine zones**.

Fishing opportunities

The total amount of fish which can be caught for each fish stock per year. **Fishing opportunities** are sometimes referred to as the '**Total Allowable Catch**' or 'TAC'.

'ICES' or International Council for the Exploration of the Sea

The **International Council for the Exploration of the Sea** (ICES) is an intergovernmental marine science organisation. It provides impartial evidence on the state and sustainable use of our seas and oceans.

Marine zones

The **United Nations' Law of the Sea Convention 1982** established different marine zones for different uses. These are usually measured from a coastal state's low-tide mark out to sea. The different zones are internal waters, territorial sea, contiguous zone and **exclusive economic zone (EEZ)**. The EEZ and territorial sea are often discussed in relation to fisheries and provision is made for fishing to take place in these zones in the TCA.

Quota

A **quota** is a share of the fish catch or fishing effort allowed to an individual fisher.

Special stocks

Special stocks are defined in the TCA as:

- stocks for which ICES advises zero TAC;
- stocks caught in a mixed fishery if that stock or another stock in the same fishery is considered vulnerable; or
- any other stock which the UK and EU considers require special treatment.

Total Allowable Catch (TAC)

The total amount of fish which can be caught for each fish stock per year. The 'Total Allowable Catch' or 'TAC' is sometimes referred to as '**fishing opportunities**'.

