

# Fishing: the threat goes right up to the shoreline.

When the Prime Minister gave her first major speech outlining Brexit at the Conservative Party conference on 2<sup>nd</sup>. October 2016, Fishing for Leave rapidly produced an analysis, pointing out the pitfalls within the Prime Minister's plan.

Invoking Article 50 was fine. This would create a clean break, with no repercussions from the other 27 Member States because they had accepted the terms in the Lisbon Treaty and the Croatian Accession Treaty. What was of great concern was the Prime Minister's quest for a "deep and special" relationship, which like David Cameron's red lines, would never be on offer or available, so such a policy would be chasing rainbows.

While FfL could understand the reason for bringing all EU existing legislation into domestic Legislation, (otherwise on Brexit day there would be vast sections of UK legislation missing), we had serious concerns. This procedure was satisfactory for internal law, but it would cause problems with joint EU external legislation (Regulation) such as the Common Fishing Policy.

This concern was heightened when the Prime Minister stated that all rules and Laws would be the same the day before Brexit as after. The **rules** can be made to be the same, but the **laws** cannot be the same, simply because the UK will no longer be an EU member state, but treated as a third country, with no obligation for the EU to treat the UK as compatible.

Because of the huge amount of time wasted at the start of the Brexit process, the UK is having to go through the process of an implementation/transition period (21 months) and if the terms agreed with the EU are formally adopted, we face a

serious risk of a legal action through the Vienna Convention on Treaties, which could tie us down to the status quo for many years.

By surrendering fishing, the Nation's resource, for the 21 months of the transition period, instead of leaving the CFP on 29<sup>th</sup>. March 2019 and introducing a sensible scientific and environmentally sound British policy, we would be continuing with the CFP management, meaning that UKfishermen would have to be subject to the final stages of the discard ban, which will be introduced at the start of 2019. If it is strictly enforced, by the UK Government's own findings, 60% of the UK fleet will face bankruptcy, opening up the possibility for the EU to catch more fish in our waters in 2021,. Under International Law UNCLOS3, Article 62 (3), because the UK would no longer have sufficient catching capacity, what we can't catch must have to be handed to our neighbours – in other words, the EU.

If that was not bad enough, the UK government, under the draft withdrawal agreement of 19<sup>th</sup>. March has agreed Article 125, and section 4, though paragraph 1, to allow the European Commission to propose to the Council that they can adopt measures on fixing prices, levies, aid and quantitative limitations and on fixing and allocation of fishing opportunities. This includes the waters right up to UK beaches, as the derogation for the 6 and 12 nautical mile limit will have fallen, so the UK can say goodbye to the inshore lucrative squid fishery, and shellfish industry.

Our coastal communities will continue to decline, in spite of the token Government support of the Coastal Communities Fund which, since 2012, has encouraged the economic development of coastal communities. So far £170 million has been spent and the scheme is now to be extended to 2021 with a possible further £90 million spend. That is a pittance compared to the possible potential of over **£6 billion annually** our UK marine

life could generate.

The only success which the UK Government can claim is leaving the 1964 London Convention, but that will be tested July 2019, when all EU vessels should be excluded from the 12 nautical mile zone. That will be a test on whose law is superior EU or UK, as July 2019 will be during the transitional period.

There is no doubt that during the 21 month period, the UK fishing Industry, thanks entirely to UK Government policy, will be worse off than if we had stayed in the CFP . For the Prime Minister to say we will come out of the CFP in 2021, taking control of our Nation's waters, to run our own affairs, is chasing rainbows, as the European Parliament has made it clear there will be no trade deal without EU access to UK waters. There is strong evidence to suggest that the EU was not prepared to consider any transitional agreement if we regained control of fisheries. Having capitulated once for the 21 month transition, a second capitulation – trade deal for fisheries access, is inevitable.

Without a legally watertight binding document in the next few months stating that nothing within our EEZ will be given away, the Prime Minister will not be believed.

This is not the fault of the EU, which will strive for the best deal for the benefit and unity of the remaining 27 member states. Our Government has been told, and warned of the consequences of their actions, but it seems determined to push our maritime heritage beyond the point of recovery – to become global Britain, a land mass only. To repeat, **it was the decision of our government to capitulate.** The European Commission's "notice to stakeholders", published today (9th April) could not have been clearer, ***"As of the withdrawal date, the Common fisheries policy rules no longer apply to the United Kingdom...In accordance with international law of the sea, fishing vessels wishing to engage in fishing activities***

***in waters under the sovereignty or jurisdiction of a third country are required to obtain a fishing authorisation from that third country.***" This could not be clearer. The government held all the trump cards, but threw them away.

The actions of the UK Government is proving that it has a very different interpretation of Brexit from those who voted leave. The problems that will arise for the UK stem from our own Government's policy, no one else.

Fishing for Leave has constantly pointed out the pitfalls of Government Brexit policy, and one extra concern which we wish to highlight is the fate of the 12 nautical mile zone during the possible transitional period from 30 March 2019 to 1 January 2021.

One has to remember that basis on which the UK has exclusive rights in the 6 and 12 nautical mile zones is a derogation, by regulation, from our EU Accession Treaty (which gave the EU rights up to our low water mark.)

On the 29th March 2019 the EU treaties cease to apply, which in turn takes out the regulations, so at that point we are out cleanly, with no repercussions. However, if we find ourselves subject to the CFP in all but name, there will be no derogation this time. This means that EU vessels can fish in the 12 miles around our coasts – without the limitation of quota. This would ruin our shellfish and squid fisheries. Much of this catch is sold to the EU, but it now looks like EU vessels can catch and harvest it themselves.

The only saving grace, could be what Fishing for Leave tirelessly campaigned for, the removal of the 1964 London Convention, which allows foreign vessels into our 6 and 12 nautical mile zone. This should take effect on the 4th July 2019, and it will be a huge test of Government resolve, to see if they capitulate 100% and continue EU vessel access. If they do, EU vessels will be up to the beaches, and like the Kent

Kirk case in January 1983, thanks to our Government's own actions, there will be nothing we can do about it.

Michael Gove, the secretary for the Environment, Food and Rural Affairs was living in a fantasy world when he replied to Alastair Carmichael with these weasel words:-

*"There is a significant prize at the end of the implementation period, and it is important that all of us in every area accept that the implementation period is a necessary step towards securing that prize. For our coastal communities, it is an opportunity to revive economically. For our marine environment, it is an opportunity to be managed sustainably. It is critical that all of us, in the interests of the whole nation, keep our eyes on that prize."*

Both Mr Gove and the Prime Minister had previously stated categorically that we would leave the CFP on the 29th March 2019 and take back control of our Exclusive Economic Zone of 200 nautical mile/median line, but in order to secure what will be a disastrous 21 month transition to buy moew time (in other words, to cover up the fact that they didn't have any idea about a final settlement), the Government surrendered our EEZ to the EU.

Just to remind ourselves, here are Mrs May's words:-

*We will be leaving the common fisheries policy—and, as I indicated, the CAP—on 29th March 2019. The arrangements that pertain to fisheries during that implementation period will, of course, be part of the negotiations for that implementation period. Leaving the CFP and the CAP gives us the opportunity, post-implementation period, to introduce arrangements that work for the United Kingdom. The Environment Secretary is discussing with the fishing and agriculture industries what those future arrangements should be.*

Can we trust her? After recent events, no amount of words, promises, assurances, will convince coastal communities that

come 2021, the people's marine resource will back under national control. After such a *volte-face*, they are justified in assuming that it will be given away for a trade deal, just as it has been given away now for the 21 months transition. The EU will demand that position for a trade deal and the UK Government will capitulate, and hand it over.

Just look at Article 125 part 3 of the draft UK draft leaving document :

*The Union may exceptionally invite the UK to attend, as part of the Union delegation, international consultations and negotiations referred to in paragraph 1 of this article, to the extent allowed for Member States and permitted by the specific forum.*

What a degrading, humiliating position the UK Government has placed our nation in.

Finally, part 4 states: *Without prejudice to article 122(1) , the relative stability keys for the allocation of fishing opportunities referred to in paragraph 1 of this article shall be maintained.*

Paragraph 1 relates to article 43(3) TFEU : *The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.*

**As relative stability keys can be changed, the EU can take what they like out of UK waters.**

DEFRA (the Department for the Environment, Food and Rural Affairs, claims that it had reached a deal with the EU whereby the UK's share of the catch in our waters would not be reduced during the transitional deal, which includes keeping the 12-mile limit exclusively for UK fishermen. Whatever DEFRA might, however, as far as the 12 nautical mile zone is concerned, based on the draft Withdrawal Agreement Article 125, it is

wrong.

The 6 and partial 6 to 12 nautical mile zone is protected presently by a derogation within Regulation 1380/2013. That Regulation ceases to apply to the UK when we leave the EU on 29 March 2019.

DEFRA will argue that this isn't the case because through the European Union (Withdrawal) Bill this Regulation has been incorporated into domestic legislation.

Not just DEFRA but the UK Government as a whole is making a huge mistake in this thinking. While our rules might be identical, as we have pointed out, the legal basis is not the same, simply because we will no longer be a member state. In order for this arrangement to be acceptable with the EU, it would have to be incorporated in a treaty.

Until that happens, the wording of Article 125 relates from the base line (Low water mark) out to 200 nautical mile/median line.

Even if the EU agrees by handshake to maintain the existing arrangements, without a legal basis, EU vessels will enter our 12 nautical mile limit to take non quota species, such as squid, cuttlefish and scallops.

The only saving grace, could be the UK's withdrawal from the London 1964 Fisheries Convention, commencing 4th July 2019, which withdrawal excludes all EU vessels from within the 12 mile zone. A determination to enforce this exclusion will be another test of the Government's resolve. Will it stand firm, or capitulate? If it is the latter, then as with the 21 month implementation period, it will be certain capitulation over any trade deal which might come into effect at the end of 2020.

The fishing industry is not going roll over and Fishing for Leave will be organising a series of protests in ports up and

down the country to highlight the plight of the industry – to be betrayed a second time by a Conservative government. Details of the location and dates of protests will be found in this article, which will be updated regularly.

What angers fishermen and their supporters is that this surrender is totally unnecessary. If the government needs more time to negotiate a long-term deal, then why not go for the EEA/EFTA route as a holding position? As far as fisheries is concerned, it would mean that we could take back control and the EU would be powerless to stop us. It could not stop us signing up to an arrangement which it has already signed with Norway, Iceland and Liechtenstein and would also mean that any negotiations on a long-term trade deal would be starting from a much better position. Having regained control of fishing, we could make it clear to the EU that sharing our resource once again, to the detriment of our national fishing industry, will not be on the table. Indeed, it could not be on the table as the electoral price would simply be too high.

Why the government is sticking so rigidly to its suicidal course remains a mystery, but yesterday's protests are only the start. Our fishermen have their backs against the wall. They have nothing to lose. The government – and the Conservative party in general – by contrast has everything to lose.