

The UK-EU fishing issue is all about sovereignty

Fisheries expert John Ashworth explains why the issue of fishing access in the UK-EU negotiations is all about sovereignty. The UK's fishing waters are as much a part of the UK as the land mass. We wouldn't gift the EU the Yorkshire Dales or London in exchange for a free trade agreement, so why should we hand them sovereignty over our waters?

It is no coincidence that fishing is the ultimate test of a successful Brexit. The British people voted to take back control – meaning to return sovereignty to the UK. For this to be true in any meaningful way, it must include sovereignty over our fishing waters. The current stand-off between the UK and the EU over a fishing agreement is a battle over sovereignty, pure and simple.

The EU is looking to the past on fisheries

Michel Barnier, in his letter of reply to David Frost dated 20 May, stated a fundamental principle of the EU's negotiating position as follows:

'We also do not accept cherry picking from our past agreements. The EU is looking to the future, not to the past, in these negotiations.'

Except that in the area of fisheries, the EU is itself demanding exactly that: a deal based on the past. It is a past that began in 1970, when the six founding EEC Member States created Regulation 2140/70, establishing the Common Fisheries Policy. It was created specially so that the Six could exploit the rich fishing waters of the coastal states that were

applying to join the EEC in 1970; not only the UK but also Denmark, Norway and Ireland. The regulation was signed off only hours before the signed membership applications of the Four were formally submitted.

Regulation 2141/70 created the principle of **equal access to a common resource**. This means that all sovereign waters of the Member States up to the shore (base) line are shared with every other Member State, as is all living marine life within those waters.

This regulation became part of the EEC/EU's joining rules. In order to join, the applicant nation had to be sovereign over its coastal waters in order to hand that sovereignty over to the EU. Since the EU is not technically a nation, it has to work through the member states, who are compelled to hand over their sovereignty over their maritime waters.

Initially this meant a Member State's **territorial waters** (12 nautical miles from the coastline). But in the 1970s the United Nations Conference on the Law of the Sea made it possible for countries to establish their own **Exclusive Economic Zones (EEZ)**, expanding national sovereignty out to 200 nautical miles from its coastline (or the 'median line' if there was less than 400 miles between two countries' coastlines). The UK's EEZ was established by the Fishery Limits Act 1976, but Regulation 2141/70 meant that sovereignty over it automatically passed to the EEC.

Now the EU is demanding that, as far as fisheries are concerned, the future must be based on the past. They demand a permanent continuation of the present share out, including the equal access principle on which those quota shares ('relative stability keys' in EU-speak) are based. This amounts to a demand that the UK once again hands over to the EU sovereignty over its EEZ, as if the UK had never left the EU at all.

It is all about sovereignty

The UK's EEZ is British sovereign territory. It is thus as much part of the UK as the land mass. The United Nations Convention on the Law of the Sea (UNCLOS) explicitly defines a country's territorial waters in terms of sovereignty:

'The sovereignty of a coastal State extends, beyond its land territory and internal waters... to an adjacent belt of sea, described as the territorial sea.' [Article 2]

Likewise, UNCLOS also defines a country's Exclusive Economic Zone (EEZ) in terms of sovereignty:

'1. In the exclusive economic zone, the coastal State has:

'(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;' [Article 56]

For the EU to insist that the UK, a sovereign nation once again, must continue to hand over sovereignty over our EEZ is a most blatant act of cherry picking without parallel or precedent anywhere in the modern world. It is certainly not a standard EU policy, but a one-off; and one with sinister colonial undertones at that.

If a nation leaves the EU, as the UK did as on 31 January 2020, under international law those waters and resources automatically revert back to the UK. The only thing that can prevent this is the UK government deciding otherwise, as indeed it did when our Westminster Parliament endorsed the eleven-month transition period.

Our EEZ is part of the UK. Here we are as a nation trying to think globally, and yet there are those who would give away

sovereignty over one of the world's greatest marine resources in lieu of some scraps of concessions on a trade deal. Would they be so willing to hand over to the EU the Yorkshire Dales or the Lake District, or for that matter, London?

When the EU demands access to continue as at present, it is asking for something to which it has no right under international law. It would require the UK to once again hand over this sovereignty to the EU, in the form of a new treaty signed by our government in Westminster.

This would not sit well with the electorate. Not for nothing was the return of our fisheries to national control a significant issue during the 2016 referendum campaign. The British people have often proved much more capable of seeing the wood for the trees than our politicians. They understood that fisheries is a sovereignty issue, and therefore a point of principle rather than a commodity to be traded away.

We have international law on our side, and so must *not* allow the EU to bully us into giving way. If the EU's intransigence results in no-deal on fisheries, then under international law (i.e. UNCLOS) sovereignty over the UK's EEZ automatically returns to Westminster the very second the transition period ends on 1 January 2021.

In short, the EU's threat of walking away from the trade talks and their use of blackmail (no trade deal without the surrender of our fisheries) will only hasten the day when they will have to accept that the UK and only the UK will determine how much reciprocal access they will have to our EEZ. Just as happened to the UK in the last Icelandic Cod War (1976), EU fishermen could end up with nothing – excluded from their historical prime fishing grounds with thousands of fishermen losing their livelihoods. And they will only have the EU to blame.