



Brussels, 9 April 2018

## NOTICE TO STAKEHOLDERS

### WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON FISHERIES AND AQUACULTURE

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement<sup>1</sup> establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').<sup>2</sup> The United Kingdom will then become a 'third country'.<sup>3</sup>

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, operators carrying out fishing activities and any of the activities related to any stage of production, processing, marketing, distribution and retail chains of fishery and aquaculture products are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the Common fisheries policy rules no longer apply to the United Kingdom. This has in particular the following consequences:<sup>4</sup>

#### 1. CONTROL AND ENFORCEMENT

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

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<sup>1</sup> Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

<sup>2</sup> Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

<sup>3</sup> A third country is a country not member of the EU.

<sup>4</sup> This notice does not address aspects related to maritime transport, including safety of fishing vessels (see, for these aspects, the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of maritime transport*"), seafarer qualifications (see, for these aspects, the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules on the minimum level of training of seafarers and the mutual recognition of seafarers' certificates*"), and marine equipment (see, for these aspects, the "*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of industrial products*") ([https://ec.europa.eu/info/brexit/brexit-preparedness\\_en](https://ec.europa.eu/info/brexit/brexit-preparedness_en)).

required to obtain a fishing authorisation from that third country. In addition, fishing vessels performing fishing activities in third country waters are subject to applicable laws and regulations of the concerned coastal state and hence may undergo control and enforcement activities carried out by the authorities of the coastal state concerned. The flag State is responsible for diligently monitoring, including through authorisation schemes, the activities of vessels flying its flag when operating in third country waters, to ensure that such activities do not undermine the sustainability of the stocks in the coastal state's waters and are consistent with applicable conservation rules of the coastal state.

Against this background, **access by Union vessels to third country waters** under direct authorisations, granted by the third country authorities, fall under the authorisation procedure foreseen by Regulation (EU) 2017/2403 on the sustainable management of external fishing fleets.<sup>5</sup> In this framework, provided that all criteria and conditions foreseen in Articles 4 to 7 of Regulation (EU) 2017/2403 are complied with, EU Member States may authorise their vessels to fish under such direct authorisations in accordance with the procedure set out in Articles 16 to 18 of Regulation (EU) 2017/2403. This procedure requires the prior notification of the Commission and gives the Commission the possibility to object to the granting of the fishing authorisation in accordance with Article 18 of Regulation (EU) 2017/2403 if the conditions set out therein are not complied with.

As of the withdrawal date, these rules will apply to Union fishing vessels wishing to engage in fishing activities in waters of the United Kingdom.

**Access by third country vessels to Union waters** is subject to the authorisation procedure foreseen in Title III of Regulation (EU) 2017/2403. In this regard, third country vessels may only engage in fishing activities in Union waters if in possession of an authorisation issued by the European Commission in accordance with Articles 32 to 34 of Regulation (EU) 2017/2403 and provided they comply with the other requirements in that Title, notably Article 38 of Council Regulation (EU) 2017/2403, which sets the rules on control and enforcement measures for fishing activities within Union waters of fishing vessels flying the flag of a third country.

As of the withdrawal date, these rules will apply to United Kingdom fishing vessels wishing to engage in fishing activities in Union waters.<sup>6</sup>

## **2. LANDINGS AND FIRST SALE OF FISHERY PRODUCTS**

**Access to ports of third countries**, including port services and first-stage marketing installations, and the landing of catches in such ports by vessels flying the flag of an EU Member State are subject to the rules in the third country. As of the withdrawal date, Union vessels wishing to land in the United Kingdom will be subject to the rules applicable in the United Kingdom.

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<sup>5</sup> Council Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, OJ L 347, 28.12.2017, p. 81.

<sup>6</sup> Pursuant to Article 2 of Regulation No 1005/2008, 'fishing vessel' means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, fish processing vessels, vessels engaged in transshipment and carrier vessels equipped for the transportation of fishery products, except container vessels.

**Access to ports of EU Member States**, including port services and the use of first-stage marketing installations, as well as the conduct of landing and transshipment operations in such ports shall be prohibited for vessels flying the flag of a third country unless they meet the requirements laid down in Section I of Chapter II of Regulation (EC) No 1005/2008. As of the withdrawal date, these rules will apply to United Kingdom vessels wishing to land in the Union.

The above is without prejudice to rules of international law of the sea applicable in cases of *force majeure* and distress.

### **3. IMPORT AND EXPORT OF FISHERY AND AQUACULTURE PRODUCTS**

#### **3.1. Flag State notification and catch certification**

According to Article 20(1) of Regulation (EC) No 1005/2008, in order to export fishery products caught by third country flagged fishing vessels<sup>7</sup> to the EU, the Commission has to have received a notification from the flag State. As of the withdrawal date, this applies to the United Kingdom.

Fishery products<sup>8</sup> may only be imported to the EU when accompanied by a catch certificate (Article 12(2) of Regulation (EC) No 1005/2008). The catch certificate to be validated by the United Kingdom must certify that the catches concerned have been made in accordance with applicable laws, regulations and international conservation and management measures. The catch certificate must have been validated by the United Kingdom competent authority and, when required, accompanied by other documents envisaged by the certification scheme in the event of an indirect import after transshipment, transit or processing of the products in another third country (Articles 14 and 19 of Regulation (EC) No 1005/2008).

Export of catches made by Union fishing vessels to the United Kingdom will also be subject to the catch certification scheme if the United Kingdom certifies to the European Commission by way of notification that it has in place relevant implementation, control and enforcement arrangements and public authorities empowered to verify certificates (Articles 15 and 20 of Regulation (EC) No 1005/2008).

#### **3.2. Consumer information, labelling, and marketing requirements**

Fishery and aquaculture products placed on the EU market are subject to specific market requirements set out in Regulation (EU) No 1379/2013<sup>9</sup>, which include the specific consumer information requirements (Chapter IV of Regulation (EU) No 1379/2013) and marketing standards on fishery and aquaculture products (Chapter III of Regulation (EU)

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<sup>7</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, OJ L 286, 29.10.2008, p. 13

<sup>8</sup> Pursuant to Article 2 of Regulation 1005/2008, 'fishery products' mean any products which fall under Chapter 03 and Tariff headings 1604 and 1605 of the Combined Nomenclature established by Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, with the exception of the products listed in Annex I of this Regulation.

<sup>9</sup> Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, OJ L 354, 28.12.2013, p. 1.

No 1379/2013). The rules include also the prohibition to sell fish below the minimum conservation reference size for direct human consumption.

Apart from these sector-specific requirements on the import and export of fishery and aquaculture products, the horizontal requirements in EU food law apply.<sup>10</sup>

These rules, be they sector-specific or horizontal, apply to all food placed on the EU market, independently of the place of production of the food.

As regards organic aquaculture, for products placed on the EU-27 market as of the withdrawal date, the certificates issued by control authorities and bodies in the United Kingdom are no longer valid.<sup>11</sup>

#### **4. PROFESSIONAL ORGANISATIONS**

Fishery and aquaculture producer organisations established pursuant to Article 6 of Regulation (EU) No 1379/2013 and inter-branch organisations established pursuant to Article 11 of the same Regulation may only function within the Union and fulfil the tasks stipulated by Union law if recognised by Member States in accordance with Section II of Chapter II of that Regulation. As of the withdrawal date, producer organisations and inter-branch organisations recognised in the United Kingdom on the basis of Regulation (EU) No 1379/2013 will no longer be considered professional organisations under EU law.

European Commission  
Directorate-General for Maritime Affairs and Fisheries

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<sup>10</sup> See "*Notice to stakeholders – Withdrawal of the United Kingdom and EU rules on food law*" ([https://ec.europa.eu/info/brexit/brexit-preparedness\\_en](https://ec.europa.eu/info/brexit/brexit-preparedness_en)).

<sup>11</sup> For details, see "*Notice to stakeholders – Withdrawal of the United Kingdom and EU rules on food law*" ([https://ec.europa.eu/info/brexit/brexit-preparedness\\_en](https://ec.europa.eu/info/brexit/brexit-preparedness_en)).