

Report of the Cabinet Member for Economy and Skills

Introduction

I have been asked to report as follows for Full Council on 18 February 2021:

1. By Councillor Hannaford as follows:

Can the cabinet member please report to council on the effects of the new EU trade deal on Devon's fishing industry?

Response

Brexit and Transition context

The UK left the EU at the end of 2019, with the end of the Brexit transition period on 31 December 2020. A new EU-UK trade and cooperation agreement (TCA) with the EU has come in to force in 2021. It provides for free trade in goods and limited mutual market access in services, as well as for cooperation mechanisms in a range of policy areas, transitional provisions about EU access to UK fisheries, and UK participation in some EU programmes. Under the agreement, the EU and UK agreed to the exclusion of Agriculture and Fishing from state aid rules, they also agreed a binding dispute settlement system.

This agreement helps to mitigate any additional economic impacts that were envisaged under a no-deal scenario, where a further 2% fall in GDP nationally was forecast (and 2% fall in GVA at the Devon level).

In the immediate period after 31 December, port operations seem to be working more smoothly at Channel ports after the Covid-19 disruption from 23 December. There is however some initial disruption to some goods heading to Northern Ireland and the continent as a result of new paperwork and local reports of difficulties exporting some fish and shellfish due to delays in animal health regulations being implemented.

Fisheries terms of engagement

About 2/3rds of UK fish production is exported to the EU, while a significant proportion of domestically consumed fish comes from non-EU countries such as Norway and Iceland. This is in part due to differing demand for species between countries i.e. high demand for cod in the UK.

Prior to the Brexit Agreement, the economic value of fisheries in UK waters for EU vessels represented £565m a year. The UK caught £98 million a year of landings in the EU's exclusive economic zone.

During 2020 and in 2021 to date, demand for fish has fluctuated significantly and is generally down due to the pandemic impacts on closed fish and chip shops and restaurants, both in the UK and in other countries. As and when full re-openings take place demand is likely to change and potentially increase.

The UK has now left the EU Common fisheries policy. During a transition period of 5½ years from 2021, EU fishing quotas in UK waters will gradually be reduced to 75% of their pre-Brexit levels. After this transition period the shares of fish the parties are allowed to catch in each other's waters will then be negotiated on an annual basis. The largest change in quotas is for Sprats where the UK share increases from 52% to 84% in the English Channel, for other species of fish the quota shares remain largely the same between 2020 and 2025.

Imports and exports

UK fisheries products now face customs and SPS (Sanitary and Phytosanitary) health checks upon EU entry. Post Brexit Custom checks have since January 2021 been holding up seafood exports, as entire trailers need to be checked, rather than samples according to the Scottish Seafood Association. In addition, multiple technical issues such as bar codes not being recognised by border control as well as IT issues have prevented loads leaving French ports in teething troubles of the new system.

SPS compliance

It has emerged since the UK fully left the EU and the Brexit Transition period that third countries, such as the UK, have to purify their shellfish catch domestically before it is sanctioned for export, despite no change to UK standards, or water quality subsequent to 31st December 2020. The process adds significant costs and delays, with some British businesses impacted warning that this will cause issues of viability.

The depuration process for bivalves varies by sea quality areas. At present any bivalves from sea quality C can't be exported at all. Bivalves from sea quality B can't be exported as there are no agreed criteria for this process yet, to enable an EHC to be signed. Bivalves from sea quality A can be exported.

Devon and UK partners are at present conducting lab tests for E. coli and salmonella in bivalves after depuration from sea quality B to get agreement on standards required to obtain an EHC for export that will be acceptable to EU SPS checks.

Recent UK press reports indicate that initial DEFRA advice stated that this temporary trade barrier would come to an end in April, however, current indications from the EU are that the ban on exporting un-purified shellfish will now continue indefinitely. The UK Government has stated that there is no legal barrier to the trade continuing after Brexit on animal or public health grounds, and that the UK is asking the EU to abide by its existing regulations and not seek to change them. It has said that previously the EU had been clear that this is trade that could continue, and all that was required was to design the right export health certificate. It is raising these issues to try to resolve them with the EU.

Other issues and changes raised with Devon County Council, many of which involve additional paperwork, bureaucracy and/or teething issues and which are being flagged with Government for resolution where relevant, include:

VAT

All exporters have to have their own Vat agent in each EU country exported to. This was known at the start of January. Agents differ in cost. Even if there is unlikely to be VAT involved in an export, a zero return has to be completed.

Export Health Certificates (EHC)

The requirement for an EHC that is compliant with EU sanitary regulations - this includes sea quality, production methods, factory registration, vessels inspections, and Rules of Origin (RoO). These EHCs can have more than one species on each, but each customer has to have their own EHC.

Groupage loads

Some of these are causing potential problems. e.g. DFDS Seaways has its own clearance system but requires EHCs, invoices, catch certificates and in some cases the individual's VAT agent details. Any mistakes made on one consignment within a truck of 50 consignments will cause huge problems at the U.K. border and the EU border. There have been lots of problems thus far and DFDS are only running three services per week to the Boulogne Sur Mer hub.

Catch certificates

These are at present coming through reasonably well. However, the fishing industry is operating at approximately 15% of normal because of weather, time of year, Covid and the obvious hurdles of additional excess paperwork not being fully understood.

RoO

Not all fishing vessels are currently registered. e.g. in Cornwall the sailboat oyster fishery on the Fal. There is no way yet to get a catch certificate for this fishery, as the industry is still trying to establish the criteria required for port health and EHOs to be able to sign an EHC. There are others but this one is major.

Commodity codes

This does not appear to be standardised as some commodity codes either do not exist or apply to two or more different species and procedures. E.g. live winkles can't be exported as there is no criteria for RoO - different rocks in different sea areas of collection. There are lab tests going on now to establish a record of E. coli and salmonella in this species. The continuing problems are that the commodity code for live Winkles (gastropod) is the same as for scallops (bivalve molluscs).

C88 Forms and NCTS system

We are having problems with some companies being able to find customs agents that can fill in C88 forms, or understand the urgency of fresh fish or live shellfish exports.

NCTS is the New Computerised Transit System - a system of electronic declaration and processing that traders must use to submit Union Transit (UT) and Transports Internationaux Routiers (TIR) declarations electronically. This is still being misunderstood by some customs agents and the advice to some companies has been wrong. The system currently sometimes has difficulties handling large volumes of declarations.

Ports of export

Diminished status of Plymouth/Roscoff as a route for bivalves, plus the increased costs involved in paperwork increases and the distance travelled now via Portsmouth or

Dover. Plymouth/Roscoff services have been suspended until the end of March 2021 due to the pandemic.

Funding support

Funds announced so far include:

- The Seafood Disruption Support Scheme was launched in January 2021 for seafood exporters across the UK (focused on small and medium sized businesses) of £23 million. This is to support businesses which have been most adversely affected by the COVID pandemic and the challenges of adjusting to new requirements for exporting. It opened for applications of up to £100,000 per business on 10th Feb 2021 and remains open until 28th Feb 2021. Devon County Council has been promoting this scheme through its partner organisations, including the Growth Hub.
- There will be a new UK fishery grant scheme worth £100m, which replaces the European Maritime and Fisheries Fund (EMFF), which in many ways was resource heavy in administering. Further detail is to be announced. Indications are that the scheme will be designed, in part, to help rebuild Britain's fishing fleet, enabling it to take on new quotas as they are relinquished by the EU. It will also be used to boost the processing industry to ensure that there is the capacity to land the extra catch. Devon County Council will work alongside local and regional partners to respond to any consultations, as and when these emerge and lobby where and when appropriate for the fund to benefit the local fishing industry.

Subsidy control (State Aid)

EU State aid rules prohibit member states providing state aid (subsidies) in a way which distorts competition in the EU internal market. The new UK-EU Trade and Cooperation Agreement (TCA) ensures that provisions on a level playing field in terms of competition and state aid continue to be applied with a mechanism for resolving disputes. As part of the agreement Agriculture and Fishing have been excluded from State Aid Rules.

Providers of aid in the UK are expected to undertake their own "detailed case by case" consideration of whether their proposed measures will breach the provisions of the three sets of international obligations (TCA, WTO terms and NI protocol). Government department BEIS is developing a new 'transparency database' for recording any subsidies provided.

Companies in the EU can challenge state aid awarded to UK rivals in Britain's national courts if it breaks common principles set out in the trade deal and vice versa. The UK also agreed to set up an independent state-aid authority, although the deal does not require subsidies to be reviewed before they are granted. Either side would also be able to unilaterally impose tariffs to counter the effect of trade-distorting subsidies, although the other party could then call for accelerated arbitration.

The UK subsidy control framework has yet to be determined. The UK's new subsidy control mechanism, which is replacing EU state aid is currently being consulted on by the UK Government and Devon County Council will be responding to this and is gathering the views of the County's fishing community.

There is the potential for more generous subsidies to UK businesses, including fishing, but still within internationally recognised regulations. Should agriculture and fisheries be excluded from subsidy control rules it may have some potential to disadvantage an area

like Devon if the EU continues to have higher levels of subsidies for these sectors going forwards. Devon County Council will make the case for equitable treatment for the fisheries sector alongside other industries domestically and also for a regime that ensures the local fishing industry remains competitive with its EU counterparts.

Sustainable fish stock management

From 01 Jan 2021, the UK has banned all electric pulse fishing in its exclusive economic zone, though not its exclusive waters. Pulse fishing is used by trawlers mainly aimed at flatfish like Dover sole in the English Channel and North Sea. The EU previously agreed to allow member states to ban pulse fishing from mid-2021 with a transition period. This was mainly aimed at Dutch trawlers which use the practice and also to improve fisheries environment sustainability, but indications are that for some member states this date is being pushed back.

Bylaws published in February for consultation by the Marine Management Organisation will prohibit vessels from bottom trawling, which involves dragging weighted nets along the seabed in several key Marine protect Areas around the British coast. These include the Dogger Bank and the South Dorset Marine Protected Area, which is close to areas used by many South Devon based trawlers. The sites are already designated as protected areas, but in reality, they are not patrolled - and they're over-fished. Bottom trawlers typically seek scallops, sandeels, sole, plaice, cod, and crab. The UK government has also proposed to partially stop bottom trawling at two other theoretically protected sites – one off the coast of Land's End and the other off Lincolnshire.

Potential economic impacts

There are potential economic impacts and also opportunities for Devon from the current Trade friction and changes to the fishing quota and catch regimes. We are as yet unable to ascertain the scale of impact upon the sector and whether impacts are temporary, or likely to be longer lasting, including any potential future uptick in UK demand and changes in trends towards the consumption of different species. Most importantly it is, however, apparent that the fishing and fish processing sectors in the UK and EU have been seriously impacted by the effects of the Covid pandemic and associated lockdowns upon the restaurant, hotel and catering trade and knock-on demand for fish. It is as yet difficult to unpack the impacts upon the sector from post-Brexit trade friction and the very far reaching drop-off in demand due to the pandemic.

Councillor Rufus Gilbert
Cabinet Member for Economy and Skills