

Brexit: Fisheries

Hello, my name is Vincent Power and I'm from A&L Goodbody and first and foremost I hope that you and yours are well and safe and secondly in this Brexit soundbite what I'm going to do is I'm going to explore the whole topic of fisheries and how it fits into the Brexit debate and how it actually became one of the top three issues in the final stages of the EU-UK negotiations on a trade deal.

What is it about Brexit and fisheries? Why did this issue ever become one of the top three items in the Brexit trade negotiations? Indeed, what is it about Europe and fish generally? And while fisheries might seem irrelevant to most people, it is of vital interest to those involved in the fishing sector and undoubtedly it's become a sticking point in the Brexit talks.

So what are the key points one needs to know? Well first, as a matter of logic, fisheries should not be among the top three issues but then again logic has little to do with Brexit. The fishing sector is believed to be about 0.5% that's half of 1% of the UK's GDP.

In other words, 50 pence in every hundred pounds of UK GDP and there are others who say that it's even smaller, 10 times smaller at 0.05% of GDP but it all depends on who's counting and how they counted.

Countries with more established fishing sectors such as Norway or New Zealand ring in around 0.4% of GDP or 0.7% so no matter what way you count it is small. For example, the UK's Office of National Statistics would say that the financial services sector in the UK is 168 times bigger than fishing. Put another way, two days of banking gives you a year's fishing. There are more driving instructors in Britain than fisher people. There are 12 times as many practicing solicitors in England and Wales than the 12,000 or so fisher people across the whole of the UK.

So logically it shouldn't be part of the Brexit negotiations, or at least not one of the top three issues, but it is and that's where we stand.

The second issue is that logic has very little to do with Brexit. Fisheries, is a tangible issue. It symbolizes Brexit, and this is politics. The top port in the UK for landing fish is Peterhead in Scotland, with about 150,000 metric tonnes a year. That's 75 times the size of our glass and county down in Northern Ireland, which is believed to be the smallest fishing port.

So it's reckoned, though, that about 9 out of every 10 Scottish fishermen voted for Brexit, and a town like Grimsby in England, that voted 75% in favour of Brexit. So now with the blue wall of Tory seats in the north of England, something has to be delivered on fish. And fish, remember, it's something for real people and not for experts or the elites. So that's what it's about. It's about the symbolism of Brexit.

Thirdly, fisheries is about taking back control. Fifty years ago, many of the fishing communities around the UK were vehemently opposed to membership. Joining the EEC in 1973, towns like Hull and Grimsby and so on are now shadows of their former selves. And they may have been that way anyway, with or without EU membership. But many people, many locals in particular, would say it was the common fisheries policy which caused the problem.

And there are some commentators today who say that the UK has done actually quite well out of the EU fisheries regime and has not been the bad deal that's been portrayed in the media. But the idea about taking back control and doing so over it, your fishing stocks, is tangible and real.

The difficulties of losing control over fishing is actually typified by the factor-tain litigation in the UK in the late 1980s and the early 1990s. And it was a shock to many people. The UK government had introduced legislation in Westminster in 1988 to curb Spanish boats fishing in British waters and that legislation was of course illegal under EU law because it discriminated against fellow EU nationals i.e. it discriminated against Spanish in particular. And for the first time many in Britain realized that the national parliament wasn't sovereign in all areas. Now the same thing had happened in Ireland with the Pesca Valencia litigation a number of years earlier but Ireland took it in its stride and it wasn't a surprise.

Fourth area is that fishing is a difficult issue to resolve and that's why it's proved to be right to the very end of the negotiations a difficult issue. If you take the 'quote UK waters for UK boats only' approach of the Brexiteers, then there's no room for French, Spanish, Irish, Dutch or other EU boats. And conversely there would be no room in EU waters for British boats when they expand or when they exhaust UK fleets, UK stocks I should say.

So, the EU wants a fair deal but that's interpreted by the Brexiteers as an intrusive invasion by foreigners into British waters. And the Brexiteers say that about 60% of the fish landed from British waters is already caught by non-UK fisher people. So, it's a difficult issue to resolve because the EU wants to get into those British waters and the British fishermen want to keep them out and both sides can't win. You can't divide that baby in two, it's just too difficult.

So, the EU and the UK published proposals, and it really typified the way both sides have been going about Brexit. The UK listed various species over a number of pages and the EU in their draft document was far more detailed. The list went on for pages and pages and pages. For example, they named seven types of common sole, three types of tusk, not named after Donald Tusk, the former president of the European Council, and a species of fish that I'd never heard of but sounded just perfect for the Brexit negotiations. It was the 'picked dogfish' which sounds very like the picked dog fight and that's what it is. The UK is pumping up the fisheries issue in the Brexit negotiations to bring home the bacon, tangible proof of something from Brexit.

It's like Donald Trump and Appalachia's Call. The problem for the UK with picking fish as its sort of talisman type issue is that eight EU coastal states don't want to concede on the issues and the issue countries like France, Spain, Belgium, Ireland, Germany, the Netherlands, Denmark and Sweden. So it is a dogfight, there will have to be compromise and we'll see what that compromise would be.

I suppose the fifth point is that, and I should think about it for a moment, if the UK has already left the EU on the 31st of January 2020, then why are the two sides still talking about the issue during the trade talks? And the answer is that under the withdrawal agreement, the UK was still signed up to the EU common fisheries policy until the end of the transition period. And under the common fisheries policy, at its very simplest, the fishing trawler from any EU member state has access to everyone else's fishing grounds other than the 12 nautical miles from the baseline.

But it's not a free-for-all, there's the annual all-night negotiations every December involving EU fishery ministers and quotas. But it's actually quite complicated, involves all sorts of issues involving the European, it's just the exclusive economic zone and so forth.

So, if the UK was to get fisheries policy that it wanted, then it would actually generate a huge stock of resources just for itself, particularly off the Scottish coast and that of course would become more complicated still if Scotland was to gain independence.

But ultimately you'd ask yourself, could fish really be that important? And the answer is yes, fish can be very important in EU life and in EU law. First of all, if you take Norway, Norway planned to join the European communities along with Denmark, Ireland and the UK on the 1st of January 1973. Norway signed the Treaty of Accession. In public international law terms, it basically means like an engagement for marriage. It proposed to the European communities, the European communities accepted.

Norway bought the ring, announced the engagement, set the date, the 1st of January 1973. But then it had a referendum of its people on the 25th of September 1972 and by a margin of 54 to 46, and again you'll see all these referendums are tight, Norway called off the wedding.

The Norwegian Prime Minister from the Labour Party had to resign and some of the wedding presents had to be handed back. And the reason for the Norwegian rejection, in large part it was about protecting the Norwegian fishing community and the fishermen were among the strongest supporters of remaining outside and the strongest opponents of joining the European communities.

And it's not just Norway, if you take Iceland for example, the UK and Iceland fought three Cod Wars and it was gunboat diplomacy over fish and as recently as the 1970s. At one point the UK deployed 22 frigates in the Cold War in the 1970s. I think today the Royal Navy only has 13 frigates, nine fewer. So you know that figure of 22 Royal Naval frigates with shots being fired in anger by both sides shows how emotive fishing and fisheries can be.

Fishing disputes are often more intensive than one can imagine. Emotions are high, it's visceral, you know sometimes people who go down to the sea - they don't come back.

This can be life or death and generations fish in the same fishing grounds and so on. It's tribal and its territorial.

The EU say that this is a difficult issue to resolve, fish spawn in different waters, it's unfair to see them as belonging to one jurisdiction. And you know the fish that are swimming around in 'British waters' will lose their EU passport come this new arrangement, if the UK's plans prevail. The UK on the other hand say they've left the European Union, they don't and shouldn't be bound by the EU common fisheries policy, these are now British fish and they should be caught by British fishermen.

So the parties differ on for example, whether there'd be annual negotiations or whatever. The UK wants annual Negotiations which are actually jars with the idea of getting Brexit done once and for all.

So what will happen? For now, there will probably be a culinary mix that even Nigella Lawson wouldn't curd conjure up. We will probably have fudge with our fish. In other words, there won't be a full final agreement but there will be some fudge around the edges .And then there will be talks and talks, and talks, and talks.

It is hard to see the end of the whole of trade falling over just because of fish. It's difficult to see an agreement being rejected simply because of fish. So there will be other issues and fish will be just put into that category of some measure of agreement now, but probably agreements over time. This could be just the beginning of the fish issue because fish will remain on the menu for some time to come.