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My Lords,

Lords' Consideration: Fisheries Bill

I promised to write about two matters which were raised on 12 November during Lords' Consideration of the Fisheries Bill.

Denmark's historic fishing rights

Baroness McIntosh asked about a potential claim that Denmark might have in relation to historic fishing rights in the North Sea.

Rights to fish in UK waters under the CFP – both the UK's territorial sea and EEZ – end on 31 December this year. As an independent coastal State, the UK will have rights under UNCLOS to control which other states' vessels may fish in its Exclusive Economic Zone. Any future access to fish in UK waters will be a matter for negotiation between the UK and the EU.

UK-Faroes Special Area

Lord Lansley asked how the 1999 Agreement between the UK and the Faroe Islands was implemented into domestic legislation. Given that this is a complex legal issue, it may be helpful if I first set out some background to this Agreement.

The 1999 Agreement on Maritime Delimitation between the UK and Denmark together with the Faroe Islands (the 1999 Agreement) delimited the continental shelf between the two countries and part of the waters suprajacent to the shelf in that area. In relation to the part of the agreement dealing with waters, the UK-Faroe Islands Special Area was established within which both Parties exercise fisheries jurisdiction. The 1999 Agreement entered into force in July 1999 and was followed by an accompanying Protocol in 2013.

Under the 1999 Agreement, the Faroe Islands are able to license their own and other countries' vessels to fish in the Special Area. The UK is equally also able to license their own, and once we leave the Transition Period, other countries' vessels to fish in the Special Area. Vessels licensed by the Faroe Islands may fish in the Special Area even if they do not possess a UK licence, in which case the Faroe Islands are responsible for those vessels' control and enforcement. This is the effect of Article 5 of the 1999 Agreement.

While the UK was an EU Member State, the Common Fisheries Policy governed the conditions for access by Faroese-licensed vessels to EU waters, including the Special Area. Most recently, these have been set out in the Sustainable Management of External Fishing Fleets Regulation (2017/2403). In addition to noting the relevant provisions of the 1999 Agreement, the "agreed record" of annual EU-Faroe Islands negotiations detailed a particular reporting system for third country vessels licensed to fish the Special Area by both Parties (i.e. the EU and the Faroe Islands).

As the UK has now left the EU, we need to ensure that neither our domestic legislation nor our fisheries agreements conflict with our existing obligations, after the end of the Transition Period. The need to amend the original licensing provisions in what is now the Act in order to continue to fulfil the UK's obligations under the 1999 Agreement came to light as we took forward our due diligence in preparation for the negotiations with the Faroe Islands.

The relevant provisions in the Fisheries Act will ensure that the UK's licensing regime is consistent with the 1999 Agreement. Further, they ensure that there is a power to license vessels to fish in the Special Area which are also licensed by the Faroe Islands to fish there (such vessels must be included on a list maintained and published by the Scottish Ministers for this purpose). Such vessels will be subject to UK control and enforcement, which is a devolved matter. In the case of the Special Area, the control and enforcement of any such vessels would be carried out by the Scottish Government.

I am copying this letter to all noble Lords who took part in the debates and I shall be placing copies of this letter into the libraries of both Houses.

Yours ever,
John