

Reference: C.N.578.2020.TREATIES-XXI.7 (Depositary Notification)

AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10
DECEMBER 1982 RELATING TO THE CONSERVATION AND
MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY
MIGRATORY FISH STOCKS
NEW YORK, 4 AUGUST 1995

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND: DECLARATION ¹

The Secretary-General of the United Nations, acting in his capacity as depositary,
communicates the following:

The above action was effected on 31 December 2020.

(Original: English)

“[The Government of the United Kingdom of Great Britain and Northern Ireland has] the honour to refer to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the ‘Agreement’).

[The Government of the United Kingdom of Great Britain and Northern Ireland has] the further honour to refer to the Declarations of the Government of the United Kingdom of Great Britain and Northern Ireland (the ‘United Kingdom’) made on 19 December 2003 in respect of the Agreement. Following the United Kingdom’s withdrawal from the European Union on 31 January 2020 and the end of the transition period provided for in the Withdrawal Agreement between the United Kingdom and the European Union on 31 December 2020, the United Kingdom will have full competence in its own right over all matters covered by the Agreement.

In accordance with Article 47 (1) of the Agreement, applying mutatis mutandis Article 5 (4) of Annex IX of the United Nations Convention on the Law of the Sea, the Government of the United Kingdom therefore has the honour to notify the withdrawal of paragraph 1 of its Declaration made on 19 December 2003 with respect to its transfer of competence to the European Community in respect of certain matters governed by the Agreement, with effect from the end of the transition period on 31 December 2020.

¹ Refer to depositary notification C.N.1590.2003.TREATIES-15 of 13 January 2004 (Ratification in respect of the Metropolitan Territory: United Kingdom of Great Britain and Northern Ireland).

For the avoidance of doubt the declarations made in paragraph 2 of the United Kingdom's Declaration of 19 December 2003 are reaffirmed to the same extent on the following terms:

1. The United Kingdom understands that the terms 'geographical particularities', 'specific characteristics of the sub-region', 'socio-economic geographical and environmental factors', 'natural characteristics of that sea' or any other similar terms employed in reference to a geographical region do not prejudice the rights and duties of States under International law.
2. The United Kingdom understands that no provision of this Agreement may be interpreted in such a way as to conflict with the principle of freedom of the high seas, as recognized by international law.
3. The United Kingdom understands that the term 'States whose nationals fish on the high seas' shall not provide any new grounds for jurisdiction based on the nationality of persons involved in fishing on the high seas rather than on the principle of flag State jurisdiction.
4. The Agreement does not grant any State the right to maintain or apply unilateral measures during the transitional period as referred to in article 21 (3). Thereafter, if no agreement has been reached, States shall act only in accordance with the provisions provided for in articles 21 and 22 of the Agreement.
5. Regarding the application of article 21, the United Kingdom understands that, when a flag State declares that it intends to exercise its authority, in accordance with the provisions in article 19, over a fishing vessel flying its flag, the authorities of the inspecting State shall not purport to exercise any other authority under the provisions of article 21 over such vessel.

Any dispute related to this issue shall be settled in accordance with the procedures provided for in Part VIII of the Agreement. No State may invoke this type of dispute to remain in control of a vessel which does not fly its flag.

In addition, the United Kingdom considers that the word 'unlawful' in article 21, paragraph 18 of the Agreement should be interpreted in the light of the whole Agreement, and in particular, articles 4 and 35 thereof.

6. The United Kingdom reiterates that all States shall refrain in their relations from the threat or use of force in accordance with general principles of international law, the United Nations Charter and the United Nations Law of the Sea.

In addition, the United Kingdom underlines that the use of force as referred to in article 22 constitutes an exceptional measure which must be based upon the strictest compliance with the principle of proportionality and that any abuse thereof shall imply the international liability of the inspecting State. Any case of non-compliance shall be resolved by peaceful means and in accordance with the applicable dispute-settlement procedures.

Furthermore, the United Kingdom considers that the relevant terms and conditions for boarding and inspection should be further elaborated in accordance with the relevant principles of international law in the framework of the appropriate regional and sub-regional fisheries management organizations and arrangements.

7. The United Kingdom understands that in the application of the provisions of article 21 paragraphs 6, 7 and 8, the flag State may rely on the requirements of its legal system under which the prosecuting authorities enjoy a discretion to decide whether or not to prosecute in the light of all the facts of a case. Decisions of the flag State based on such requirements shall not be interpreted as failure to respond or to take action.”

8 January 2021

A handwritten signature in black ink, consisting of the letters 'DN' with a horizontal line underneath.