

Jersey Fishermen's Association Ltd

04-01-2020

Territorial Seas & states assembly vote 27-12-20

Dear States member,

The proposition voted through by the assembly in the emergency states sitting of Sunday 27th December, in terms of conceding to 3 nautical mile exclusivity on fisheries for Jersey, was sadly, not one which offers any hope for rebuilding our fleet, but the interpretation of that decision is fatal to that rebuilding process

Free fishing Permits; The JFA is deeply concerned, to see the commitments made by our external relations Minister to counterparts in France and the subsequent issue of permits for foreign vessels to fish *inside* our 3 nautical miles, contradicting the proposition and the brexit deal which specified 3 nautical miles within sovereign waters. I remind you of chapter 1 of the arrangement on which you voted..

(HEADING FIVE: FISHERIES Chapter one: Initial provisions Article FISH.1: Sovereign rights of coastal States exercised by the Parties The Parties affirm that sovereign rights of coastal States exercised by the Parties for the purpose of exploring, exploiting, conserving and managing the living resources in their waters should be conducted pursuant to and in accordance with the principles of international law, including the United Nations Convention on the Law of the Sea of 10 December 1982

Numbers of permits issued to date we understand, is circa 30 (with around 40-60 more to come as boats submit proof of track record) The JFA understand however, from copies of emails obtained from French Officials that the french administration will demand a great number (most likley 382 vessels previously authorised under old Granville Bay Treaty), re-issued with permits for Jersey waters. It is likely that France will contest permit numbers accordingly. There is an additional issue whereby young Jersey fishermen are faced with massive costs for a license to fish our waters, (quarter of a million GBP for the most recent license),while we appear to be content to give free access to foreign vessels.

Fisheries Limits-The main issue; While fisheries regulations, base lines for delineation of fisheries limits and definitions of sovereign waters may be complex, they are all covered by established maritime law. The status of our territorial seas furthermore, is defined by historic conventions and agreements, the pertinent ones, are listed below. In that context, there has been since the 1953 Hague case, no question of sovereignty of Minquiers and Ecrehoes. Nor is there, according to United Nations Convention of Law of the Sea (UNCLOS) any doubt as to the use of those island/reefs, for defining base lines for fisheries limits. The “deal” framed in the proposition 27-12-2020 included a para to the effect that “all parties shall ensure that all aspects of post brexit fisheries regimes shall be in accordance with international law and maintain principles in line with sustainability.

The issue of permits to foreign vessels to fish in the reefs is not only a breach of maritime law, it also relinquishes sovereignty of the reefs. Most importantly it places excessive strain on lobster stocks and deprives our boats of their livelihood.

Provided below is the chart drawn to represent actual 3 mile limits around Jersey, along with the one which was previously used under the (now terminated) Granville Bay treaty.

It is entirely inconceivable therefore that any states member will have believed that they were voting for an arrangement that would not be in accordance with international maritime law.

The alternative and one on which the JFA asks for your support, in relation to, is for our external

relations and for our environment ministers to work for the benefit of our islands fishing community and to only issue permits to foreign vessels in accordance with international maritime law. That is to say, our 3 nautical miles must be drawn to include the Minquiers and Ecrehoes.

Another option we are advised, is a judicial review of the external relations Minister's decision.

The JFA wishes to maintain the good working relationship we have developed with most parts of government, so that Judicial Review is a course of action we would not take lightly, particularly in view of the fact that more practical options exist.

Regarding sovereignty and fisheries limits; Although the Granville Bay Treaty (in view of the exchange of notes London Jan 30 1951- fishing activity in Minquiers and Ecrehoes), provided a form of derogation to allow access to the Minquiers and Ecrehoes, the treaty in section 9, nullifies the Jan 30 1951. The treaty did not however, nullify the findings of the International Court of Justice Hague 1953 awarding sovereignty of the Minquiers and Ecrehoes. Termination of the treaty on December 31st 2020 automatically re-asserts UNCLOS law and beyond question, requires our fisheries limits baselines to extend from lowest drying rocks, within sovereign waters.

90 day opt out clause. During the debate on the 27th December, it was made clear that the 90 day opt out clause is not a period for further negotiation. The view held the minister for external relations, who presented the proposition, that we should allow the continuation of access to the reefs and the issue of permits *inside* of 3 nautical miles, as per the terms of the now terminated treaty is a deeply flawed and unwise strategy. There is little scope for maneuver within the 90 days and to be clear even less when the 90 clause expires. The fear that France would pre-empt the opt out without justification, putting the entire brexit process back into disarray is totally unfounded, as is the likelihood, that the treaty would automatically be reinstated. International treaties cannot be terminated then re-instated at a whim. Please understand that French fishermen, particularly those that fish Jersey and Guernsey waters, have received an incredibly good deal out of brexit and they know it. Opting out and hoping to see the reinstatement of a treaty that had failed in its primary remit, would expose french fishermen to the potential loss of access to all of Jersey's 12 mile territorial seas, should the treaty be declared null and void.

Pertinent historic events, conventions & agreements are as follows;

Convention-Paris 2-august 1893. rights over oyster fisheries on the coasts of Great Britain and France.

Declaration 23 June 1843 adopting fisheries regulations 24 may 1843.

Declaration specifying limits of fisheries in Granville Bay 20 December 1928. (effectively the old Mer Commune agreement)

Agreement between UK and france 1951 regarding rights of access to Minquiers and Ecrehoes.

1953 Hague hearing. France v Great Britain- sovereignty of Minquiers and Ecrehoes, found in favor of Great Britain (Jersey)

Exchange of notes London 1964 concerning status of previous fisheries agreements. (This is effectively the 1964 London Convention establishing formalised fisheries limits from the coast of all EU states and CDs though Jersey was excluded) Note also the London Convention was terminated by UK government at the beginning of the brexit process.

Exchange of Notes Paris regarding habitual fishing rights of foreign vessels within British fisheries limits 24 feb 1965

Guernsey-france dispute over GU fisheries limits (Haricot banc and Sark Box). Subsequent eviction with 24 hours notice of all Jersey vessels, from historic fishing grounds between 6-12 miles around Roche Douvre reef. (sovereignty of france)

Granville Bay treaty 2000- terminating all above agreements except Hague 1953 Decision The treaty provided a derogation to allow access in fisheries limits in Minquiers and Ecrehoes. France despite the benefits to their fishermen within the treaty, continued with the exclusion of Jersey fishermen from historic grounds in french waters.

Granville Bay treaty Terminated December 31 2020

United Nations Convention on Law of the Sea (UNCLOS) including the section on use of lowest drying rocks belonging to the sovereign state, forming baselines for fisheries limits is unaffected by brexit deal. Hence the chart below is the proper 3 mile limit for which states members voted on Dec 27.

Charts shown on following pages.

In conclusion, the purpose of this letter is for states members to appreciate that they have already voted in favor of Sovereign rights of coastal states being exercised in accordance with the principles of International Maritime Law. The issue of permits to French fishermen does not comply with with international maritime law as illustrated above. The JFA makes no apology for stating that if this situation is not corrected immediately, then it will be devastating to our Jersey Fishing industry.

With thanks Don Thompson President Jersey Fishermen's Association

