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Streamlining Fisheries Governance: Addressing Legislative Fragmentation in Shared Irish Marine Waters

Ms Claudia Allen, Professor Richard Collins and Dr Heather Ritchie
Queen's University Belfast
callen42@qub.ac.uk

27 May 2026

KESS Policy Briefing

...is a forum that encourages debate on a wide range of research findings, with the overall aim of promoting evidence-informed policy and law-making within Northern Ireland

Key points:

- Fisheries governance around the island of Ireland operates across fragmented institutional, legal, and sectoral systems despite marine ecosystems functioning across political boundaries.
- Brexit increased governance complexity by shifting fisheries management from the EU Common Fisheries Policy towards a more fragmented multi-jurisdictional UK–EU governance landscape.
- Existing cooperation mechanisms, including the UK–EU Trade and Cooperation Agreement and the Loughs Agency, support cross-border coordination but do not fully resolve governance ambiguity or operational inconsistencies across shared waters.
- The UK–EU sand eel dispute demonstrates that governance tensions may still arise even where sustainability objectives remain broadly aligned, particularly regarding how environmental and economic trade-offs are interpreted and applied in practice.
- While the proposed Fisheries and Water Environment Bill improves aspects of domestic fisheries governance through enforcement alignment and ecosystem objectives, wider cross-border coordination, operational guidance, and ecosystem integration remain necessary to support cohesive and ecologically coherent governance.

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Executive summary

The evolution of fisheries governance in Northern Ireland has resulted in fragmented, informal, and complex arrangements; operating across shared ecosystems that are also governed under the jurisdictions of either the Republic of Ireland or the United Kingdom. Although there are examples of legal frameworks which have been implemented on shared fisheries resources, (Voisinage Agreement, the operations of the Loughs Agency, and the development of the UK-EU Trade and Cooperation Agreement (TCA)), historical and recent disputes show that cooperation on paper is not enough. Specifically, by demonstrating the risks presented by fragmented governance frameworks over shared fisheries resources. One of these key challenges is ensuring management principles are applied consistently, proportionately, and transparently in practice, especially for inshore fleets that are competing for space and resource use with other marine activities. These examples expose structural governance gaps that the proposed Fisheries Water and Environment Bill 2026 (henceforth the "Bill") seeks to address.

This brief uses the UK–EU dispute over sand eels to demonstrate in very practical terms how governance conflicts are emerging, despite shared sustainability objectives and cooperation mechanisms existing in situ. The dispute highlights that regulatory alignment in governance objectives alone may be insufficient, without greater consistency, transparency, and coordination in how such objectives are operationalised in practice.

While the proposed Fisheries and Water Environment Bill presents an opportunity to support a coherent and cooperative governance framework that reduces the risk of conflict across jurisdictions and marine sectors, the scope of the Bill could be developed further to strengthen the robustness of fisheries governance through a sustainable ecosystem-based approach.

What's the governance problem?

The waters around the Northeast Atlantic Ocean, including those around the island of Ireland are becoming increasingly busier and congested. There is a growing presence of both traditional and emerging marine activities, including: fisheries, shipping, recreation, conservation areas, aquaculture and offshore marine renewable energy (Bonsu et al., 2024). These activities often overlap in space and time, but are predominantly governed in isolation, through separate legal and policy frameworks that are not always well integrated (Flannery et al., 2015).

This creates a fragmented governance system, where responsibilities for managing interconnected marine resources are spread across multiple sectors, legal frameworks and jurisdictions, that are not always well coordinated. Fragmentation of governance responsibilities can occur between marine sectors (sectoral fragmentation) and across institutions or jurisdictions (jurisdictional governance). This can lead to conflict both between

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and within sectors for resource use and space in the sea (Reeves et al., 2015), which marine governance literature identifies as a key challenge in achieving sustainable ocean governance (Flannery et al., 2015; Kelly et al., 2018).

Fisheries are particularly vulnerable to fragmentation effects as they often overlap and coincide with other marine activities, as fish stocks move more frequently across jurisdictional boundaries. As a result, fisheries are often central to resource-based disputes, competing with environmental, economic and spatial pressures. Limited coordination between the decision-making bodies across sectors may undermine efforts to achieve effective and sustainable management of marine resources (Ansong et al., 2022; Ritchie & Ellis, 2010).

Alongside the sectoral fragmentation occurring across the waters of the island of Ireland, governance here has historically operated under a complex array of international (e.g. United Nations Convention of the Law of the Sea, (UNCLOS (1982)), regional (e.g. Northeast Atlantic Fisheries Convention (NEAFC)) national and subnational (devolved) legal frameworks. Prior to the UK's withdrawal from the European Union, these frameworks were largely coordinated through the EU's Common Fisheries Policy (CFP) to manage fish stocks within the territorial waters (with some restrictions) and Exclusive Economic Zones (EEZ) (maritime jurisdiction extending 12-200 nautical mile from the coastline) of each EU Member State. This included the productive waters of the Celtic, Irish and North seas, and the English Channel. Post-Brexit (2021), the UK gained regulatory autonomy over its waters and replaced the CFP with the UK Fisheries Act 2020. This was the primary legal framework for domestic fisheries management in UK waters. Brexit thus created a governance shift away from the centralised EU framework under the CFP to an even more fragmented multi-jurisdictional landscape across an EU-UK marine ecosystem. To coordinate the management of fish stocks across jurisdictions, the TCA was established as a cooperation mechanism between the EU and UK legal systems. Whilst the TCA provides an agreed set of sustainability objectives and fisheries management principles, which remain aligned throughout the legal landscape, policy divergence can lead to different management approaches, which can invoke competition over access to resources (Flannery et al., 2015), as well as tensions between environmental and economic priorities. Effective coordination across governance systems is therefore crucial for achieving cohesive and ecologically coherent fisheries governance.

Do existing governance mechanisms address the problem?

To address the challenges associated with managing shared fisheries resources in the waters around the island of Ireland, several cooperation mechanisms exist across EU-UK jurisdictions and at the cross-border level.

At the broader EU-UK level, The UK-EU Trade and Cooperation Agreement (TCA) (2021) was developed as a cooperation mechanism to manage shared resources post-Brexit and includes measures relevant to approximately 100 shared fish stocks. This agreement sets shared sustainability objectives and management principles intended to support coordinated

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fisheries governance across UK and EU waters and binds both the EU and UK to meeting shared management principles. These principles include managing fisheries in accordance with available scientific advice, maintaining fish stocks at sustainable levels, and applying a precautionary and ecosystem-based approach to fisheries management. Furthermore, to prevent competition over resource access, the TCA also includes non-discrimination provisions intended to prevent one party implementing conservation or management measures solely on the vessels of the other Party. This prevents either party acting in a politically motivated manner to support their own industry at the expense of the other.

Importantly, to minimise the friction between the two Parties, the TCA established a link between fisheries access arrangements and wider trade sanctions and includes a consultation and dispute resolution mechanism intended to discourage unilateral action against the other Party. The agreement also includes both consultation and arbitration procedures intended to manage disputes relating to fisheries access and sustainability measures. This helps address some of the risks associated with post-Brexit governance fragmentation by creating shared management principles and cooperation mechanisms across the UK and EU systems. However, governance challenges remain (Table 1) including how such principles are interpreted and applied differently across each jurisdiction and sector. The EU-UK sand eel dispute, which I turn to in the following section, illustrates why different interpretation can create tensions despite cooperation mechanisms being in place.

Alongside broader EU-UK cooperation mechanisms, cross-border governance arrangements also exist through the Loughs Agency, which provides an important example of an existing cooperation mechanism for managing shared fisheries resources around the island of Ireland. Established under the Belfast/ Good Friday Agreement (1992) through the Foyle, Carlingford and Irish Lights Commission, the Agency has responsibility for managing, promoting, and developing inland fisheries within the Foyle and Carlingford areas across Northern Ireland and the Republic of Ireland. The Loughs Agency demonstrates how cooperative governance mechanisms can support coordinated governance across interconnected systems that span political and legal boundaries. In areas such as Carlingford Lough, these arrangements have enabled joint approaches to fisheries management, conservation, and enforcement across shared waters. However, governance within the cross-border system of Lough Foyle remains more complex due to unresolved jurisdictional arrangements relating to seabed management and regulatory responsibility (Symmons, 2009). This creates practical challenges for licensing and enforcement where governance authority remains unclear. From an ecosystem-based governance perspective, these gaps may constrain the ability to regulate activities effectively across shared waters and address wider environmental pressures affecting the ecological health of the system (Hughes, 2021). This highlights the importance of strengthening coordination and clarifying governance responsibilities across shared marine ecosystems.

Fisheries governance around the island of Ireland therefore reflects broader challenges identified in marine governance literature relating to fragmentation, legal complexity, ecosystem-based management, and coordination across shared marine resources (Table 1).

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Table 1. Current governance issues across the shared waters around island of Ireland

Governance Challenge	Why It Matters
Fragmented legal frameworks	Different governance systems apply across shared waters
Inconsistent application of sustainability objectives	Shared objectives may be interpreted differently
Weak ecosystem integration	Fisheries increasingly affected by other marine uses
Cross-border ambiguity	Licensing and seabed responsibilities remain unclear
Sectoral governance silos	Fisheries managed separately from wider marine planning
Reliance on cooperation mechanisms	Cooperation exists but tensions still arise

Example of the problem: case study on the UK-EU sand eel dispute

A recent legal dispute between the UK and EU over sand eels, a shared fish stock found primarily in the UK's waters highlights why governance tensions may still arise despite shared management objectives and formal cooperation mechanisms being in place.

Sand eels are a shared fish stock under the TCA; therefore the UK and the EU are bound by the same shared sustainability objectives and management principles. This species is both an economically and ecologically important fish, as a keystone species they provide an important food source for some of the UK's most iconic seabird species, such as puffins, kittiwakes and razorbills (Gommersall & Dunn, 2022). Despite some of the key sand eel fishing areas in the North Sea being within UK waters, with a site off the eastern coast of Scotland, and one off the east coast of England (Dogger Bank), the species is predominantly fished by EU vessels, and specifically the Danish fleet who hold the monopoly of the quota at 96%, and harvested around 257,000 tonnes of sand eels in 2019. The raw sand eels are then processed into fish oil and fishmeal protein to use in aquaculture, which has an export value for the Danish industry of 37 million euros for a product that originated from fishing areas in UK waters (Defra, 2025).

In March 2024, the UK (via both the Department of Environment Food and Rural Affairs (DEFRA), and Marine Scotland) prohibited the fishing of sand eels within its waters (Figure 1). This followed calls to close the fishery due to environmental concerns raised by e-NGOs such as RSBP, Birdlife International, Greenpeace UK and Nature and Biodiversity Conservation Union, that overfishing had reduced stocks of sand eels to such a level that there were no longer sufficient numbers to support the seabird species that rely on them as a vital food source.

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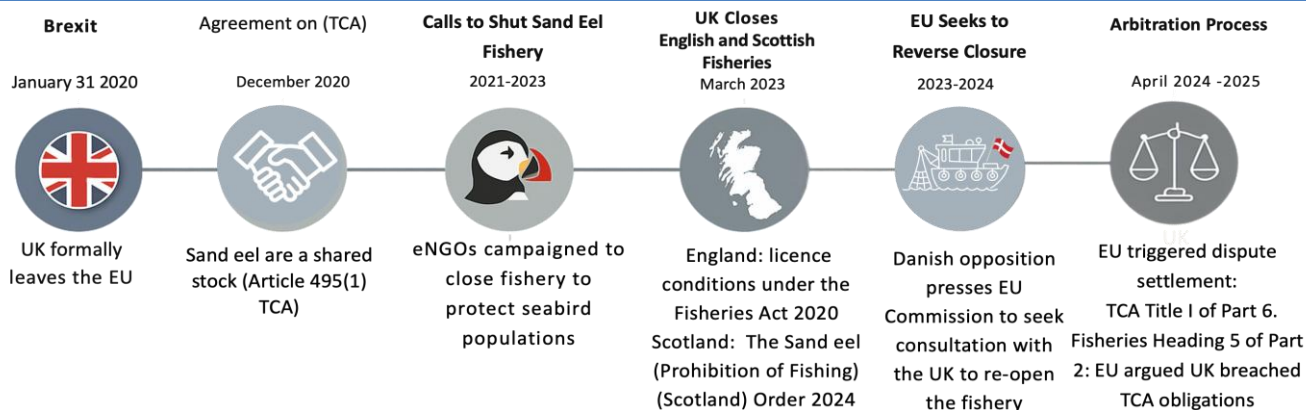


Figure 1: Timeline of the UK- EU sand eel arbitration process.

The EU challenged the ban under the dispute settlement provisions of the TCA and requested the establishment of an arbitration tribunal through the Permanent Court of Arbitration (PCA), claiming the closure breached their access rights under the TCA. This led to formal dispute proceedings: PCA Case No. 2024–45 “UK-Sand eel, European Union v The United Kingdom of Great Britain and Northern Ireland”. Here, the EU claimed the UK's closure breached the requirement for the use of scientific advice to make management decisions, and the non-discriminatory and proportionality principles, and that subsequently, the UK closure breached access arrangements under the TCA. The PCA dismissed all claims against the Scottish closure, however upheld the claim that the English closure was not proportionate based on the notion that the UK did not provide sufficient evidence to suggest DEFRA had fully considered the economic impact on the Danish fleet and were required to review this procedural error and acknowledge the economic loss for the EU.

This demonstrates that conflict over shared stocks does not only arise as a geopolitical dispute between nations across different jurisdictions, but as a conflict pitting environmental protection against commercial gain, despite both jurisdictions having the same shared goal of ensuring long term environmental sustainability in shared waters. By examining the EU and UK arguments for and against the environmental closure, and their interpretations of the ecological indicators and principles within the TCA, it demonstrates that conflicts can arise not only when there are different objectives, but importantly how such objectives are applied (particularly in relation to trade-offs between the economy and the environment).

The Republic of Ireland and Northern Ireland share many fish stocks and fishing areas across the waters surrounding the island of Ireland, making the sand eel dispute relevant beyond this specific case. Future conservation measures or fisheries closures within shared waters could similarly affect access arrangements, quotas, and fishing activity across interconnected fisheries systems around the island of Ireland.

Although the arbitration process was lengthy, the dispute resolution mechanism established under the TCA functioned as intended by managing a politically sensitive dispute through

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formal legal and scientific scrutiny rather than unilateral retaliatory measures. This helped prevent the dispute escalating into wider trade or access conflicts between the UK and EU.

Importantly, the ruling demonstrated that ecosystem-based conservation measures may be prioritised under the TCA, provided that decisions are transparent, scientifically justified, proportionate, and follow the procedural requirements set out within the Agreement. The dispute therefore highlights that governance tensions may still arise even where sustainability objectives remain broadly aligned, particularly regarding how environmental and economic trade-offs are interpreted and applied in practice.

Some commentators have described the ruling as one of the most significant environmental decisions in UK fisheries governance in recent decades (Appleby and Scott, 2026), as it establishes an important precedent regarding the relationship between ecosystem protection, proportionality, and access rights under the post-Brexit fisheries governance framework.

One of the key lessons is that governance coherence depends not only on agreed principles, but on how trade-offs between environmental protection and economic interests are interpreted. Greater co-ordination may help reduce tensions across shared fisheries, and should be considered in future negotiations on fish stock management when the TCA is re-negotiated in 2026.

How the proposed Bill address the fragmentation problem:

The ambitions of the proposed Fisheries and Water Environment Bill represent an important step towards modernising governance in Northern Ireland its ability to reduce fragmentation differs across governance areas. The Bill addresses aspects on institutional fragmentation through the unification of enforcement powers and introduces ecosystem-based management objectives for inland fisheries. More can be done however to improve the cohesiveness of fisheries governance in Northern Ireland, as the Bill itself does not fully address wider cross-border and ecosystem-level governance challenges (Table 2).

Table 2: Governance issues the Bill addresses and where gaps still remain.

Governance Challenge	Bill Response	Remaining Limitation
Fragmented enforcement	Aligns NI enforcement powers with GB	Limited cross-border coordination, penalty system differs with the Republic of Ireland
Sustainability objectives	Applies Fisheries Act objectives to inland fisheries	No operational guidance on balancing trade-offs
Ecosystem governance	Ecosystem objective included in inland fisheries management	Weak integration with wider marine planning and consideration for conflicts over space/resource use
Governance fragmentation	Modernises internal legislation	Wider UK-EU fragmentation remains; fisheries governed in silo

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Cross-border ambiguity	Limited; reference to Loughs Agency legislation developed separately	Licensing/seabed issues unresolved meaning unregulated ,unsustainable activity cannot be addressed.
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The Bill presents opportunities for addressing the institutional fragmentation of outdated fisheries legislation by modernising the Fisheries Act (Northern Ireland) 1966, specifically by introducing common enforcement powers and heavier penalties for illegal or unregulated fishing activity, which streamlines the governance of inshore and inland fisheries systems to align more with the rest of Great Britain and the equivalent legislation in the Republic of Ireland. This creates a more consistent approach to how fisheries are regulated and implemented in Northern Irish waters. Greater consistency may help reduce governance ambiguity and perceptions of unfair treatment across water systems by ensuring similar offences are managed in a more coherent way which in turn may increase regulatory compliance. This may be particularly prevalent for inland fisheries such as Lough Neagh, where increased enforcement powers may help to prevent unsustainable use of fisheries resources.

However, challenges remain in reducing institutional fragmentation across inshore and inland systems, particularly in cross-border areas such as Lough Foyle which continues to operate across complex jurisdictional and institutional arrangements. While the Bill recognises cross border structures such as the Loughs Agency, provisions related to cross-border areas were not in scope of the legislation, despite the need for addressing environmental concerns. The Loughs Agency does provide an important example of cooperative fisheries governance through the joint management of the native oyster fishery within Lough Foyle. However, wider ecosystem governance across the lough remains fragmented. In particular, ambiguity surrounding the ownership of the seabed continues to complicate the regulation and licensing of wider marine activities, including aquaculture and non-native Pacific oyster cultivation (Hughes, 2021) which may contribute to habitat degradation and reduced water quality, contributing to wider pressures on the ecosystem. This example reflects the limits of sector-specific management where wider responsibilities remain fragmented across shared ecosystems.

The introduction of sustainability, precautionary, ecosystem and scientific evidence objectives into inland fisheries governance represents an important step towards ecosystem-based fisheries management and greater alignment with the principles outlined within the UK Fisheries Act (2020). These objectives may support more effective integrated approaches to governance of water systems. Despite the Bill extending shared governance principles across inland and inshore systems, it at present provides limited operational guidance regarding how these objectives should be interpreted and applied. As demonstrated by the sand eel dispute, tensions can arise when there is a misalignment in how shared management objectives are applied in practise. For inland systems, which are only accessed by Northern Irish vessels, tensions could arise because of sectoral differences in how management objectives are interpreted. The development of an Inland Fisheries Policy Statement, as suggested in the Bill's policy proposal would be a useful guidance tool to help

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clarify how these objectives are applied. At the inshore and cross-border fisheries level, although the EU-UK TCA sets management objectives, to prevent disputes escalating and triggering an arbitration process, drafting of equivalent guidance on the interpretation and application at the national level involving decision makers from the countries who access shared fisheries would be beneficial in supporting consistency in decision making across shared waters. While the Joint Fisheries Statements and Fisheries Management Plans provide important strategic direction in achieving the objectives of the Fisheries Act 2020, operational guidance could be developed further to ensure consistent interpretation within cross border systems.

Although introducing ecosystem-based objectives into inland systems ensure that fisheries across Northern Irish Waters are governed more consistently, fisheries continue to operate within a broader sectionally fragmented governance landscape. For example, the environmental pressures faced in inland systems such as Lough Neagh, reflect how fisheries sustainability is affected by wider pressures from other activates in the same ecosystem. While the Bill strengthens the requirement for an ecosystem-based approach to fisheries, responsibilities within the ecosystem are still fragmented which may prevent ecosystem-based management becoming more coherent within freshwater systems.

Policy Recommendations

- 1. Develop shared operational guidance for applying fisheries management principles:* DAERA in cooperation with the Irish government and Loughs Agency and UK fisheries authorities should develop shared fisheries policy guidance framework to clarify how sustainability, precautionary and ecosystem objectives are applied across inland, inshore and cross border fisheries systems. This should include the balancing of environmental and socio-economic principles to support consistent interpretations.
- 2. Extend operational functions of cross-border bodies:* DAERA, Loughs Agency and Irish Government should consider the development of cross-border fisheries and marine governance legislation to explore expanding the operational role of the Loughs Agency in coordinating licensing, environmental management and enforcement across shared water systems, where governance responsibilities remain complex or contested. By extending the operational powers of the Loughs Agency to coordinate and manage activities it would be able to functionally manage this system at the ecosystem level.
- 3. Integrate fisheries governance within wider marine spatial planning:* DAERA should integrate fisheries governance within wider marine spatial planning and ecosystem management frameworks, including through the implementation of the Northern Ireland Marine Plan. Local fisheries stakeholders should be represented within the decision-making processes to ensure better coordination of competing pressures across shared eco-systems.

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Conclusions

While the proposed Bill introduces important measures to align sustainability objectives and fisheries enforcement with Great Britain, alignment in these measures may be insufficient to ensure coherent fisheries governance. As fragmentation risks misalignment in how sustainability and ecosystem objectives are interpreted and applied in practice. As demonstrated by wider UK–EU disputes, misalignment in implementation can lead to tensions, even where shared frameworks exist. Embedding clearer guidance, transparency, and ecosystem-based approaches within inshore fisheries management will be critical to ensuring that alignment in enforcement translates into consistent and fair outcomes.

Future research needed to address governance evidence gaps

The governance challenges associated with fragmented legal and ecological systems highlighted within this brief demonstrate the need for further research into how sustainability objectives can be operationalised more coherently across shared ecosystems. A greater understanding of stakeholder experiences is required to identify where challenges and opportunities lay in balancing ecological and socio-economic objectives in the marine environment. The next steps of this research project "CoCoMar: Enabling co-existence and co-location in shared island marine governance" will help provide this understanding. By conducting fisheries stakeholder interviews and performing a participatory mapping exercise with the catching sector, future research will identify where tensions may arise with other marine activities as the legal and regulatory landscape evolves. This understanding will provide evidence to support more cohesive and ecologically coherent fisheries governance around the island of Ireland.

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The CoCoMar project (Grant-Aid Agreement No. PBA/OLG/23/01) is carried out with the support of the Marine Institute under the Marine Research Programme and funded by the Government of Ireland.

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