

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 6 December 2006

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

35th Meeting 2006, Session 2

CONVENER

*Sarah Boyack (Edinburgh Central) (Lab)

DEPUTY CONVENER

*Eleanor Scott (Highlands and Islands) (Green)

COMMITTEE MEMBERS

*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

*Rob Gibson (Highlands and Islands) (SNP)

*Richard Lochhead (Moray) (SNP)

*Maureen Macmillan (Highland and Islands) (Lab)

*Mr Alasdair Morrison (Western Isles) (Lab)

*Nora Radcliffe (Gordon) (LD)

*Elaine Smith (Coatbridge and Chryston) (Lab)

COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Trish Godman (West Renfrewshire) (Lab)

Jim Mather (Highlands and Islands) (SNP)

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

Mr Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING GAVE EVIDENCE:

Dr Ingrid Clayden (Scottish Executive Environment and Rural Affairs Department)

Ross Finnie (Minister for Environment and Rural Development)

Frank Strang (Scottish Executive Environment and Rural Affairs Department)

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Katherine Wright

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 4

Scottish Parliament

Environment and Rural Development Committee

Wednesday 6 December 2006

[THE CONVENER *opened the meeting at 11:03*]

Petition

Fish Farms (Protection of Rivers, Streams and Lochs) (PE941)

The Convener (Sarah Boyack): Good morning. I welcome colleagues, members of the public and any press to the meeting. First, I remind everyone to switch their mobile phones to silent. I have received no apologies for today's meeting.

Agenda item 1 is our consideration of petition PE941 by Frank Buckley, on behalf of the Society for the Protection of Salmon and Sea Trout, which calls for the Parliament to urge the Executive to ensure greater protection for the rivers, streams and lochs of Scotland, such as Loch Broom and the River Gruinard, from fish farm developments. The Public Petitions Committee has formally referred the petition to us and has passed on the written evidence that it requested from a number of organisations. Colleagues should have all that material in their committee papers.

We have recently taken evidence on the Aquaculture and Fisheries (Scotland) Bill, some of which addressed the issues that are raised in the petition, including the conservation of wild fish stocks through the control of parasites and the prevention of escapes from fish farms. Having read the papers, we must consider whether the subject of the petition fits well enough with the background for our evidence taking on the bill. Members have had time to read the petition and accompanying papers—would they be happy if we were to incorporate this in our general consideration of the bill?

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I think that that would be appropriate. It would be a bit difficult to introduce this as a special petition at a time when we are considering the overall merits of the Aquaculture and Fisheries (Scotland) Bill.

Rob Gibson (Highlands and Islands) (SNP): I think that there have been specific problems with these areas. It is important for us to take on board the fact that people will be left unhappy at the end of the process, given the state of wild stocks and so on. Therefore, I urge the committee to reflect

some of the concerns that we are discussing in the debate and to allow there to be some sort of review of the situation afterwards. If we simply subsume the petition, it will be lost in the general debate about the bill. It would be worth coming back to the petition after the stage 1 debate, once we have learned what the Government has to say about our proposals and our report.

The Convener: Are there particular issues that you think are relevant? A number of the comments that we have got refer directly to the bill and how the petition relates to the bill.

Rob Gibson: If the petition were subsumed, would it disappear?

The Convener: From my reading of it, it contains a lot of relevant information. As you say, some of it parallels evidence that we have had on the bill more generally and some of it adds more value. However, the petition is very much in the territory of the bill. I would be keen to know what particular issues you felt that we had not picked up on thus far.

Rob Gibson: I do not think that there are many that we have not picked up on. However, I am concerned about the committee receiving a petition and simply saying that we will take it on board as part of our general discussions. That does not seem to be a satisfactory way of closing the petition. Having a short review of the petition at a later point in the process would be neater.

Maureen Macmillan (Highlands and Islands) (Lab): This happens all the time. Yesterday, the Justice 2 Committee subsumed a petition into its consideration of another piece of legislation that it is working on. Although the petition that is before us relates to a specific part of the country, the issues are those that we have raised in relation to the bill. Naturally, people will be thinking about areas in which there are specific problems, but I do not think that that is separate from the bill.

The people who live in the area that the petition is concerned with will keep an eye on what is happening. If the bill does not address the problems, that can be raised later.

Eleanor Scott (Highlands and Islands) (Green): I echo what Maureen Macmillan said. In some ways, the petition is a test case for the effectiveness of the bill. If the bill can deal with the situations that are described in the petition, it has got the approach right. I think that we should bear the petition in mind as a background test case.

The Convener: It might be appropriate to refer to some of the issues that the petition raises in the debate on the bill. They are good practical examples.

Nora Radcliffe (Gordon) (LD): I suppose that the petition will be treated as part of the evidence that we will consider, will it not?

The Convener: That is how I would view it.

Eleanor Scott: On a matter of process, it would have been quite useful if we had been able to consider the petition when we were considering the other evidence. The timing was just a couple of weeks out of kilter.

The Convener: Absolutely. The petition was lodged in February 2006 but the Public Petitions Committee did not refer it to us until 15 November. The clerks have done their best to put it in front of us timeously.

I take Rob Gibson's point that we should not lose sight of the petition. I suggest that we write to the petitioners to say that we will consider the points that they have made as part of our consideration of the bill. If people feel that there are particular issues that require amendment at stage 2, that option remains open. Once we agree to take that action, we can close the petition. As members have said, the test of the bill will be whether the kind of problems that the petition raises will remain in the future.

Do we agree to do that?

Members indicated agreement.

The Convener: It was important that we had a proper discussion on the issue. We will write to the petitioners and include an extract from the *Official Report* of this meeting. We will also tell the Public Petitions Committee what our views are.

Subordinate Legislation

EC Fertilisers (Scotland) Regulations 2006 (SSI 2006/543)

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Amendment (No 3) Regulations 2006 (SSI 2006/548)

Water Environment (Controlled Activities) (Third Party Representations etc) (Scotland) Regulations 2006 (SSI 2006/553)

Water Environment (Relevant Enactments) Order 2006 (SSI 2006/554)

11:10

The Convener: The Subordinate Legislation Committee made a number of comments on the EC Fertilisers (Scotland) Regulations 2006 (SSI 2006/543). Members have extracts of that committee's 43rd report. Members will note that our background briefing says that a proposed directive on pesticides is on the way. Accordingly, the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Amendment (No 3) Regulations 2006 (SSI 2006/548) makes a fairly small amendment to the regulations. Are there any comments?

Eleanor Scott: Only that I thought that glyphosate was a herbicide rather than a pesticide—but my knowledge dates from the time when I used to use chemicals on my garden.

The Convener: I would not dare to comment on that. Do you want to make a formal comment on that point?

Eleanor Scott: No. Perhaps the European Union's definition of a pesticide is a little different from the gardeners' one.

The Convener: Are we content to make no recommendation to Parliament on the instruments?

Members indicated agreement.

The Convener: The minister will join us for our next agenda item, but he is not due to arrive until 11.30. Accordingly, I will suspend the meeting until that time. Members have a lot of paperwork for the European agenda. If anyone wants to follow up anything in the briefing that we have been provided with by Tom Edwards from the Scottish Parliament information centre, they can ask him about it, as he is with us today.

11:12

Meeting suspended.

11:32

On resuming—

European Issues

The Convener: Our third and final agenda item is consideration of European Union issues. In particular, we will consider the December 2006 meeting of the agriculture and fisheries council and the rural development programme. I welcome Ross Finnie, the Minister for Environment and Rural Development, and his officials, and I thank the minister for his helpful written briefing, which responded to issues that the committee had flagged up because we wanted more information. I invite the minister to make a brief opening statement, which will be followed by a discussion and questions from colleagues.

The Minister for Environment and Rural Development (Ross Finnie): I am glad to have an opportunity to comment on European Union issues. The next meeting of the environment council will take place on 18 December and the agriculture and fisheries council will meet on 19, 20 and 21 December, which is convenient at least logistically, if not in any other way. Subject to the approval of the Parliamentary Bureau, there will be a debate on fisheries in the Scottish Parliament next week.

Given the nature of fishing nowadays and the fact that fish do not recognise international boundaries, the management of fisheries is increasingly international and involves not just the EU but all coastal states who recognise that, unless there are collaborative efforts to manage species, we will have no impact. It is interesting that some 59 per cent of all Scottish fishing activity is controlled in some shape or form by agreements that are reached between us and parties in the EU and beyond.

In the context of the annual negotiations, in which we are still engaged, external negotiations with third parties began way back in early October. Those negotiations are at least as important as the EU council meeting in December. In our preparations, we have emphasised the external nature of the discussions and acknowledged that we have had to engage with a wider range of parties, at ministerial and official level.

The coastal states, including Norway, reached agreement on the pelagic species, mackerel and herring, which represented a 13 per cent increase in the total allowable catch. That was important. The EU-Norway agreement, which was finalised, although it is technically subject to approval later in the year, had a more mixed outcome. The deal for Scotland involved the securing of an increase in the TAC for haddock, improvements in

management plans on haddock internationally and a better position on whiting, which is important to the Scottish fleet. A deal on herring was also agreed, although the scientific evidence was very much for a reduction.

The difficulty was to do with cod. I make no apology for repeating myself: for six years I have consistently said that as long as the scientific evidence indicates that cod stocks are below the safe biological limit there will be serious implications for the Scottish fleet, because Scotland has a mixed fishery. As every member of the committee knows, there is a wide-ranging debate in the European Commission and the coastal states about how we tackle the situation. I am in no doubt that the action on cod that Scotland in particular has taken in recent years has demonstrated a huge amount of co-operation and maturity on the part of our fishing fleet. Although numerical evaluation is nigh-on impossible, we know from scientific and other observation that there appears to be a small class of 2005 in juvenile cod. Therefore, in our view, the 14 per cent cut was excessive, but the majority view in the EU-Norway talks was that such a cut should be agreed to.

The December council negotiations will therefore take place not just against a difficult scientific background but against the background of that unfortunate outcome on cod. The paper that the European Commission produced yesterday was very disappointing indeed. I had understood that the Commission and member states were trying to engage more and in a less confrontational way, but that is clearly not the case. It is sad that the Commission has issued a shopping list of potential cuts, which takes us back to the situation that we were in two or three years ago. Those are negotiating positions, but I had rather hoped that we would have the more constructive debate that we had proposed, which would have helped.

There are other complications. The position on prawns—nephrops—has also been subject to scientific to-ing and fro-ing. The recommendation of the International Council for the Exploration of the Sea disagreed with advice posited last year by the scientific, technical and economic committee for fisheries. We are as yet unaware whether that has been resolved. On the one hand, on the basis of a disagreement, ICES recommended a cut, whereas, on the other hand, the STECF's figures would not have resulted in that happening. On monkfish, the scientific evidence remains poor. We are clear from the evidence that we have presented that a minimum 10 per cent increase is justified.

My approach will be to acknowledge the difficult balance that must always be struck, to play up the

important contribution that Scottish fishermen have made to the conservation effort in recent years and to try to ensure that the measures are balanced and equitable across the piece, so that the outcome is fair and equitable for Scottish interests. The negotiations will not be easy and, as I said, they will certainly not be helped by what we heard yesterday about potential cuts. That is disappointing, because our fishermen have been hugely constructive in their approach this year. They have agreed to and made contributions to the forward-looking progress that is being made by the sea fisheries advisory and reference group—sea-FAR—which builds on the progress on sustainable fisheries management. The fishermen's dialogue with the Commission must have disappointed them.

Turning to agriculture and rural development, as the committee knows, a difficult situation has emerged from the position that was negotiated in Europe last December, when attempts to reduce pillar 1 direct support to agriculture ran up against the not-surprising problem of the Paris agreement and therefore the focus of attention moved on to pillar 2, which was profoundly unhelpful. We had a below-average level of pillar 2 support in any event, so the attack on that was not helpful from a Scottish perspective.

The matter is complicated by the wide-ranging debate throughout Europe on the use of voluntary modulation. We have used voluntary modulation as a means of boosting our pillar 2 expenditure. The outcomes of that debate are still uncertain, both on the application of voluntary modulation and, more particularly, on whether we in Scotland will retain our current right to apply it on a basis that we decide, rather than the matter being decided at member state level. It is regrettable that the matter has not yet been resolved, which has left us in an impossible situation in relation to submitting our Scottish rural development plan. We are told on the one hand that we must submit it with financial figures, but we have told the Commission that it has made that impossible as a result of the debate on voluntary modulation. The Commission has told us that it will not be competent for us to submit the plan unless we can provide financial figures. That is profoundly unhelpful.

I note and welcome the committee's interest in the new fourth pillar of the rural development programme, namely LEADER, which has been transferred from enterprise to agriculture and which forms an integral part of the rural development programme. We have consulted widely on our proposals. I simply reiterate that the broad direction of travel will be inclusive and regionally based. The committee will wish to note that, as I said, the policy responsibility is now with us. We carried out the consultation on that basis.

The less favoured area support scheme has also got into difficulties. I emphasise that those do not relate exclusively to the delays with the rural development plan. The SPICe note that the committee has rather indicates that the delays in the programme are causing the problem. However, the more fundamental problem is the combination of the LFASS regulations and the new rural development implementation regulations, which state that all elements of rural development expenditure that relate to agricultural practice should be subject to cross-check. When we read the two sets of regulations together, in effect they mean that if we have to subject the agricultural holding to cross-check, it is impossible to make a payment before December in any year. As members are well aware, we have traditionally made the LFASS payment in March. Having to read the two separate sets of regulations together has been the cause of the problem.

11:45

Originally, the Commission wholly misunderstood the position, which is why I made a suggestion of £10 million. I had made an earlier suggestion, which I was not going public about, but it appeared to be rejected. Once the Commission understood that the problem had arisen because of the timing difference between the two sets of regulations, it considered the interim proposal of making £40 million available in March and £21 million, and a bit, available later in the year. That will still leave us with a very real problem, but we are discussing with the National Farmers Union of Scotland, the Scottish Crofting Foundation and environmentalists ways of resolving the payment difficulties on a longer-term basis.

I wanted to mention LIFE+ regulation, which is the proposed replacement for LIFE III. It will replace a lack of certainty with something more predictable. The current conciliation process between the Commission and the European Parliament has, unfortunately, introduced some uncertainties, but we believe that they will be resolved within the next two months, at the beginning of the new year. We hope that LIFE+ will be a useful instrument, particularly in Scotland. Some 40 per cent of the national allocation has to go towards nature and biodiversity programmes. That will be very important to Scotland.

The environmental liability directive breaks the mould of traditional prosecutions. Fines for breaches of environmental law will come into play. The directive will cover significant threats of damage to water, land or biodiversity from certain specified activities in which operators must avert the threat or repair the damage. That is a civil law approach based on the polluter-pays principle. We

are consulting stakeholders at the moment, and we will hold a second consultation on draft legislation later in the year.

The Convener: Because of the issues on the agenda and those that we have talked about before, I suggest that we deal with fishing issues first, with questions from round the table, and then move to agriculture and rural issues. If members are disciplined, they might be able to ask questions twice.

Richard Lochhead (Moray) (SNP): The minister will be aware that thousands of families are anxiously awaiting the outcome of December's talks. Every year the minister says that one of his aims is to achieve some stability for the industry. However, yet again, it seems that we are battling against proposals for significant cuts that would inflict severe damage on our fishing communities.

Does the minister agree that the European Commission is creating a perception that stocks in Scottish waters are not healthy when, in fact, the opposite is true? For nephrops and haddock in particular, both of which are extremely valuable to Scotland, the stocks are very healthy. Some of the pelagic stocks are also very healthy. Why is there such a divergence of views between the minister's department in Scotland and the European Commission?

Ross Finnie: Let us be clear: the dispute over nephrops is not among people in the European Commission but among the scientists. That is probably more concerning. Like everybody, including the fishermen, we accepted in good faith that the STECF findings last year were accepted by the Commission and implemented. The findings appeared to show not only that the stock was healthy, but that it was being fished sustainably.

I am as surprised and disappointed as you are that this disagreement has arisen over both the methodology and the final outcome. However, never mind you and me, our fishermen are surprised and disappointed too. As I said in my opening remarks, when we heard of the dispute we employed our scientists from Fisheries Research Services and other marine institutes in Scotland to probe into it. We understand that they made very effective presentations but we do not yet know the outcomes; the detail was lost in the smoke of yesterday's controversial, provocative and confrontational announcement. However, I have not lost hope that scientific arguments will resolve the issues.

In relation to haddock, there is no dispute. The increase in total allowable catch that was agreed at the EU-Norway talks is entirely consistent with the scientific advice and with the application of the modifications that were made to the haddock management plan. The outcome of the talks is

therefore entirely consistent with the scientific advice. Nobody in the Commission or elsewhere is suggesting that the state of the haddock stock per se is unhealthy.

The committee is as aware as I am that the difficulty arises when we come to fishing effort. I refer to proposals that are made for 25 per cent cuts of effort in cod. As everyone in Scotland knows perfectly well, even if we are not targeting cod, in fishing areas where cod is present, we catch it as a bycatch. The perennial difficulty lies in trying to get a management agreement on effort that people understand impacts adversely on our haddock fishery. That combination of events is the issue, rather than anyone in the Commission, the Parliament, or the scientific community having a fundamental disagreement on nephrops or other catches. That is the answer to the question.

Richard Lochhead: Your briefing paper states:

"the Commission has staked its credibility as a fisheries manager on the recovery of cod."

Reading between the lines, one can see another agenda, which is that the Commission, having been unable to achieve its aims thus far, does not want to swallow its pride and say so. I am concerned that there may be a battle of wills between the Commission and countries—Scotland in particular—that disagree with the Commission's findings. In other words, the Commission's priority is not being able to swallow its pride and not what is best for managing fishing stocks in Scottish waters. Will any cut in the number of days at sea for the nephrops or white-fish fleets be simply unsustainable? Would that not inflict huge economic damage on our fishing communities?

Ross Finnie: On the first point, there is no doubt at all that the approach that was adopted yesterday is disappointing. The provisions of article 8 of the cod recovery plan are unfortunate. The inference that can be drawn is that, unless a 30 per cent improvement is achieved in the cod biomass each year, the whole activity is deemed to be a failure—the article is written in stark black-and-white terms. I have been unable to find a scientist who can tell me how a 30 per cent improvement in biomass can be achieved annually in any stock that is in the state that cod is in at the moment.

That is the Commission's starting position. It is not helpful for the Commission not to recognise that its own scientists are talking about a class of 2005. It is also not helpful for it not to understand that countries are reducing effort, albeit more slowly than it might have wished. If one takes Scotland, our reduction in effort in that fishery has had the effect of stabilising the position of cod.

However, we are a mixed fishery. My argument to the Commission is this: if, on the one hand, it

tells me that reducing our effort by 65 to 70 per cent has resulted in the sustainable management of the haddock stock, how can it then say that the same fishermen in the same boats and using the same gear in the same circumstances are fishing irresponsibly in relation to cod? That is the argument that I articulate to the Commission.

I turn to cuts in nephrops or haddock days. Clearly, that is the threat. The enormous progress that has been made in the management of our fisheries over the past three years has resulted in improved financial performance for fishermen, fish processors, environmentalists and others. The result of our co-operating and collaborating in the sea-FAR strategy is that real progress has been made. However, I am acutely aware that there is a fine line between survival and the financial balance being tipped by an absence of fishing days. Resolving that matter will be one of the pressures in the talks.

Mr Alasdair Morrison (Western Isles) (Lab): I think that Mr Finnie is now Europe's longest-serving and most experienced fisheries minister. I was relieved that he put the management of fish stocks into its proper international context in his opening statement and I was again relieved to hear that fish have the good sense not to be obsessed with borders or the politics of identity. I wish that some people in the Parliament had the same good sense.

My first question is on prawns and prawn fisheries. You said that people in the scientific community have divergent views on prawns, which is a difficulty. What is the timescale for resolving such difficulties?

Ross Finnie: We have already made submissions on the matter. As soon as we picked up that there was disagreement—which was before it became public—we quickly engaged with the scientific community in Scotland and deployed its expertise in the nephrops fishery in technical discussions with the Commission.

An issue that has arisen elsewhere might arise here. Fishermen, among others, have observed juvenile cod in and around parts of the nephrops fishery. Sightings are not uniform even in the Fladden fishery—juvenile cod have not been particularly visible in the north, but they have been in the south. We have engaged the same scientific community to consider technical measures that might be deployed if a request is made for a reduction in effort in areas in which juvenile cod are being seen. Very successful experiments have been carried out with square-mesh panels, which have been calibrated and subjected to scientific assessment. Such things are being done now and I expect results soon.

Mr Morrison: The minister knows that conservation-led measures must underpin our thinking and actions. As I said, you have been in your job for a great number of years. Where do you think Scotland's east coast fishing communities would be now if you had been daft enough to listen to those who annually proclaim that there should be no reductions in nephrops catches and no changes in how the seas are fished? Would those communities exist? Furthermore, where would we be if the committee had not had the good sense to pass a statutory instrument on scallop fishing three years ago that protected the livelihoods of west coast and Western Isles fishermen? Where would we be had you and the Parliament been daft enough to support the ridiculous position that the Scottish National Party has advocated?

Ross Finnie: Those are good questions. I have no doubt that we needed a more sustainable fishery in general. Moving towards such a fishery has involved decisions that have been harsh and difficult to convey and execute.

I want to leave aside for the moment the most recent proposals and consider what has happened in the current year. As I said to Richard Lochhead, it is now largely accepted and increasingly accepted by fishermen that the reduction in the effort in our haddock fishery has been hugely beneficial. It is widely accepted across the piece that that fishery is being managed in a sustainable way and that that is in the long-term interests of Scottish fishermen. That is significant. The same broad assessment can be made of the measures that have been introduced to restrict scallop dredging in certain areas. Just as unsustainable fisheries management would have been detrimental even to the haddock stock, which is in a relatively good state, so would it have been to scallops. The long-term effect of that would have been deleterious not just to the fish stocks, but—more important, from the human perspective—to those whose livelihoods depend on there being sustainable stocks.

12:00

Mr Brocklebank: The minister will be delighted to hear that I do not propose to go over old arguments and old ground. I will try to stick with whatever positive aspects I can bring out of what we have heard so far. Nevertheless, it is interesting to hear, as yet another December summit comes around, that the EU and the Commission are being, in the minister's own words, "profoundly unhelpful".

The nephrops fishery has improved out of all recognition. The 32 per cent increase in quota last year was widely welcomed; it would be churlish to say otherwise. However, it seems now that what

was handed over is being taken back through the different mesh sizes, the proposal to introduce some kind of a grid into the nets, and the proposed reduction in the number of days at sea. Those are actions to save cod, which we would all like to save but which may be unsavable in the numbers that we saw previously. How can the minister convince us and the prawn chaps that all the efforts that are being put into the cod recovery plan are worth while when, ultimately, cod might be doomed? Should we not stop regarding cod as an iconic species and concentrate on the management aspects to which he referred in the stocks that are not, as far as we can see, so much under siege?

Ross Finnie: There is no agreement to take back anything. There is no agreement to change mesh sizes in the prawn fishery, to use a grid in the nets—I will come back to that—or to reduce the number of days at sea. In addition, it is now clearly and demonstrably wrong to say that cod is unsavable. Although the scientists are unable to quantify its biomass, the fact of the matter is that they and our fishermen are observing juvenile cod in numbers that they have not seen in the past 10 years. According to our fishermen and the scientists who have been at sea with them, observing the cod, “unsavable” is not a word that could be used.

The issue of whether there will be any adjustment downwards or upwards in the nephrops quota takes us back to the point that I made to Richard Lochhead. There is disagreement between the ICES scientists and the STECF, which largely promoted the adoption of the underwater camera surveillance for scientific measurements last year. As I said to Alasdair Morrison and Richard Lochhead, given the fact that we have made representations on the quota, I hope that the position can be stabilised.

I am unaware of any proposal to change the mesh size in the prawn fishery.

Mr Brocklebank: I was referring to the fact that there are proposals for reductions in catching effort for both mesh sizes.

Ross Finnie: Indeed. Let me extend that argument. There is a clear case that I will wish to prosecute with regard to the effect that that will have on us. The non-Scottish fisheries south of 56° north are not subject to the same degree of restriction as Scottish fisheries. However, on the basis of the latest scientific evidence, it is difficult for me to see why cod would not be caught as a bycatch, using a 70mm mesh, at latitudes south of 56° north. I will want to draw a distinction between the position at those latitudes and my efforts.

Let us be clear about the proposal for a grid. We are not actively promoting that idea. We are simply

saying that, if there was concern and a proposal were to emerge to reduce fishing effort, we would want to put to our fishermen the idea of deploying a technical measure that we have experimented with, which is a grid through which it appears that juvenile cod and haddock can escape satisfactorily. That would be an alternative to a reduction in fishing effort with a view to reducing the bycatch of cod. However, we would not promote that proposal until we had the agreement of the fishing communities. It is an idea that we have experimented with in the scientific community in preparation for the December discussions.

Mr Brocklebank: I have one further question relating to your previous appearance at the committee. I think that you said then that there were still attempts by certain countries to access EU funding for the continuing restructuring of their fleets rather than for simple re-engining and that kind of thing. Where are those proposals now? The scheme was due to end in 2005—that was the agreement, was it not?

Ross Finnie: The financial instrument for fisheries guidance management agreement has finished and the European fisheries fund will come into play. We were successful in ensuring that the agreement that was reached in Europe did not include any provision to allow new build. Indeed, we also managed to ensure that any grants that were payable to fishermen would have to be for improvements to vessels that were related to safety at sea and other such measures, not for improvements related to capacity.

The Convener: What is the current estimate of overcapacity in fleets in other countries?

Ross Finnie: It is difficult to say, as they are different fisheries. The Dutch and the Danes have been more open about discussing the need for decommissioning. Both the Dutch minister, Cees Veerman, and the Danish minister, Hans Christian Schmidt, have been in discussion with their fishermen. There are certain elements of their fisheries in which they believe that they have had decommissioning, and they have indicated in a general sense that there might be a requirement for further decommissioning. I am not aware of anybody else whose fisheries are in the North sea making a similar admission.

Eleanor Scott: As you mentioned, we have a mixed fishery in Scotland. It is clear that, whatever the target species is, a lot of different stuff comes up in the nets. It is distressing and incomprehensible to the public that fish that are not targeted or for which there is no quota are dumped over the side of the boat dead. That does nothing for conservation or for the fishermen.

At the event on Monday at which you spoke, I talked to a fisherman who said that fishermen are having to dump over the side of their boats fairly decent-sized cod that would be perfectly saleable because the fishermen have reached their quota. The total allowable catch relates to the total allowable landings; it is not the total amount of fish that are taken out of the sea.

Given that bycatch is inevitable in a mixed fishery, has there been discussion at EU level about doing things differently? For example, are there plans to have closed areas where there is no fishing and other areas where fishermen can land anything that they bring up in their nets?

Ross Finnie: There has been discussion of closed areas, but not for about two years. Quite a bit of work was done on closed areas by the Commission and others, and we, in the United Kingdom, had a further look at the concept. The evidence was problematic. International examples indicated that closed areas would bring some benefits, especially in relation to spawning seasons. However, apparently—I am not a scientist—no one could tell us precisely how to calculate the size of the area that would be required to produce an effective closed area. In those terms, on the basis of the previous science we would have ended up with the closure of almost the entire fishing grounds in the North sea, which would have slightly defeated the purpose. As Eleanor Scott illustrated, it would be much better if we could target particular areas and avoid discards, but the matter proved to be more complicated than that. One would certainly find the idea in Commission papers from about two or three years ago but, as a consequence of the initial findings about two years ago, it is not in any Commission paper from the past 18 months.

Eleanor Scott: Would fishermen be in favour of closed areas?

Ross Finnie: We are all interested in measures that would make the process more rational. Whereas in theory it would be great to have areas in which fishermen could operate and areas that were closed, everyone was slightly put off the notion when the scientists suggested that it would involve closing almost the entire fishing grounds in the North sea. That would not have met the purpose of having an alternative ground in which fishermen could take and land their catches.

Eleanor Scott: The thought was that the fishermen would be well aware of where the spawning grounds were and so on.

Ross Finnie: Yes, indeed. All those issues were fed into discussions—well, not all of them, because the matter was not pursued as far as it might have been. The issue has not been at the top of the agenda. However, although our

recordings and scientific observations show that levels of dumping and discarding are down, there is a point at which we might tip over into a situation in which we increase those levels, which would not make particularly good sense.

Frank Strang (Scottish Executive Environment and Rural Affairs Department):

One of the important issues with discards is to know the facts. One of our priorities this year will be to ensure that all member states provide discards data, so that we have a handle on that. That would mean that when, for example, we consider cod, we would know about not only landings, but total catches, which are the landings and the discards.

Eleanor Scott: Can you get reliable data on that?

Frank Strang: We are saying that not every member state provides reliable data, which is one of our priorities.

Rob Gibson: What is the minister's understanding of cod stocks? Are there more cod in Scottish waters this year than there were last year?

Ross Finnie: There might be. No scientist appears to disagree about the sightings of juvenile cod—I made it pretty clear that scientist observers on vessels have reported sightings. However, irrespective of that healthy indicator, after the biomass was calculated, it was found that the change has not been significant enough to effect a measurable and material improvement in biomass. Therefore, although there are clearly visible signs of improvement that are agreed by scientists—not by me or by fishermen—we are caught by the fact that the cod management plan requires a 30 per cent improvement in biomass. There is a bit of a dichotomy. Internationally, fish measurement is generally based on the state of the biomass. We must acknowledge that, where people take conservation seriously, they do it not on the basis of observations but on the basis of the calculation of biomass.

The Convener: I have a brief question on FIGF and the fact that we expect reduced funds to come through in the next year. Our briefing states that, in the past, we have lost funds back to Europe. Will you comment on that and say how we are fixed for the future for money that could be used to support our fisheries industry in conservation measures? Will the future funds be sufficient?

12:15

Ross Finnie: I am pretty certain that future funds will never be sufficient, because those who apply for funds have an infinite capacity for applying for more than any Government ever has

at any one time. There is a decline in total support, but we are trying to direct the money in the most cost-effective way. That is quite difficult, because it can be expensive to refurbish or do up a vessel. Although it is helpful that the funds are to be directed towards safety at sea, that still requires investment from the fishermen. If you are a regular reader of *Fishing News*, which one or two of us are—it is not necessarily prescribed reading, but it is useful reading—you will have seen that quite a lot of investment has been taking place over the years. However, we have had more uptake of our fishing funds from processors to buy equipment on the other side of the food chain. I am not aware of any particular reason for that and, given that the fund is a fixed sum, we will have to manage it intelligently to try to encourage anything that will improve competitiveness.

I should have mentioned that fishermen can get support if they are re-engining to install more eco-friendly engines that give better returns. We can still support that.

The Convener: I do not see any members who have not asked about fishing. I am keen to move on to questions about agriculture and rural development issues.

Mr Morrison: I have a question on a point that the minister made.

The Convener: Make it very brief, Alasdair, because I want to move on.

Mr Morrison: Is there any way of assessing the increase in the activity of adding value to product that is landed? Is that activity happening closer to the ports where the product is being landed? I know that, early in the summer, the minister and the commissioner saw some first-class facilities and some first-class work being undertaken in Stornoway.

Ross Finnie: There is no doubt that the existence of improved facilities and the hugely improved collaboration between our producer organisations and processors in the Western Isles, the north-east, Orkney and Shetland and down the east and west coasts have played a significant part in the improved management of and return from the fish that we land. We have moved far closer to some of our European competitors in maximising the return for the fish landed whereas, historically, we tended to think that we would optimise the total value of the catch. We are now more concerned about the quality of every individual fish or species that we land. That has made a huge difference to the financial returns that people in the industry are obtaining, which is a great credit to those who have invested in the processing facilities that have improved the return.

Maureen Macmillan: I will ask about the debate on voluntary modulation. You addressed that

matter in your opening statement and pointed out the difficulties that you are having at EU level. If we had a Scottish scheme, what would it be? I am not clear about that. Do you want to set a lower or higher rate than the rest of the United Kingdom? What are your thoughts about what you would do with the Scottish scheme if it was allowed?

Ross Finnie: I have said in statements in previous years that, to cover the overlap with the current programme, it would be necessary for Scotland to move progressively to a rate of 10 per cent as a starting point. In my language, it would consist of 5 per cent compulsory modulation and 5 per cent voluntary modulation.

There are two competing interests in my approach to voluntary modulation in future. One is the imperative to develop progressively the rural development programme. However, we must understand that, in the agriculture strategy, we are trying to persuade an increasing number of farmers to become less subsidy dependent. Our analysis of the current state of finance in Scottish agriculture is that, apart from perhaps the top 10 or 15 per cent, far too many farmers remain subsidy dependent. Therefore, in moving to my earlier proposition of a progressive level of funding in the Scottish rural development plan, the constraint is the extent to which that lessening of dependence over time can be improved and can be used to increase the level of voluntary modulation.

My fundamental principle is that I do not believe that we can simply say, "It does not matter; you do not need subsidy." Sadly, no economic analysis of Scottish agriculture could lead to that conclusion. We need to move quite rapidly. I believe that there is likely to be a quite radical change in 2013. That means that it is imperative that Scottish agriculture gets to a less dependent position by that date.

There will always be an argument for paying for public goods. There are public goods that the agriculture community provides in terms of maintaining the landscape that will always attract Government support. However, economic activity and the selling of produce have to be prime considerations. That is the difficult balance that has to be struck.

I wish that certain rumours had not been put about. There has been a suggestion that the entry scheme in England would require a level of some 20 per cent. I would not wish to go there immediately because I think that that would be totally contrary to the need to encourage the agriculture sector to become less subsidy dependent. However, I can see a case for a more progressive increase in the pillar 2 spend.

Maureen Macmillan: As you say, encouraging the sector to become less subsidy dependent is a huge challenge. How will that challenge be met?

Ross Finnie: I think that the agriculture sector is already taking steps to do that. Now that it is focused on responding to market signals, many people in the sector have adjusted some of their practices. We are trying to encourage the Scottish food industry to understand that our agriculture industry needs to have a much better flow of information. It is all very well telling the farmers to produce for market, but there will be difficulties doing so if no one in the market tells them what they want. Indeed, food processors might source some of their raw material elsewhere without knowing anything about the quality of our farmers' produce. It might be helpful if the processors could suggest to farmers that, with a few adjustments, the goods that they are currently producing could meet the processors' requirements.

Maureen Macmillan: Four years ago, the Rural Development Committee flagged up that lack of joined-up working.

Ross Finnie: In the past 12 or 13 months, there has been a sea change, perhaps in response to the committee's report and constant nagging from other sources. The messages that are coming out of the food strategy group—which is an industry-led group, not a Government body—are very different from what was coming out of the group 18 months ago. There is a far greater willingness to understand that people cannot work in a vacuum and that, if they simply make decisions about where to source internationally, that is not productive. There has been a big change in the willingness of those people to discuss how they operate and there are some moves to reinforce that.

We have given additional funding to the Scottish Agricultural Organisation Society to pick up bits out of your report and some of our work. In England, there is a Food Chain Centre, which is a private body that charges a bit of a levy. It is now quite well funded, having been in existence for many years, and has done a lot of work on this issue but it does not operate in Scotland. I do not want to replicate that body, but we have given additional funding to SAOS, to enable it to employ some extra people so that we can do work in Scotland that is similar to what is done by the Food Chain Centre.

Rob Gibson: I turn to the LIFE+ programme. Despite your comments on the reduction in support for farmers and crofters, there is a far greater need in relation to public goods and so on than has been met so far. How will people be able to access cash from the LIFE+ programme? How much will we get to deploy in relation to the countryside and rural stewardship? There is

clearly a big demand that you have been unable to meet in previous years.

Ross Finnie: There are two points. First, although there has been a reduction in pillar 2 support at the European level, there has been no reduction in pillar 1 support and no reduction in the funding that the Executive supplies in relation to the rural development programme. The Executive more than matches the funding; it funds 60 per cent of the programme and 40 per cent comes from European funds and a combination of voluntary modulation.

Secondly, on the LIFE+ programme, the proposed 80 per cent budget delegation has been agreed. Under the proposed formula, the allocation of funding to the UK would be about £30 million. That needs to be match funded by project applications, which will produce some £180 million over the programme period. There are current proposals for a fund to which Scottish applicants would apply. The level of funding will depend on the number and quality of applications. That is how things operated historically with the LIFE programmes. The amount of funding for which we are bidding is certainly not lower than the amount that was available previously. The LIFE programmes suffered from fluctuations in the amounts that were available.

Rob Gibson: Clearly, there is a need for strategic Government co-ordination to maximise Scotland's gains from the LIFE+ programme. Are you intent on maintaining responsibility for the programme within the Scottish Executive Environment and Rural Affairs Department or do you expect more to be handled by Scottish Natural Heritage?

Ross Finnie: I do not think that that would necessarily be right. Obviously, we have done a lot of work in relation to the LIFE-Nature programme. I am much more interested in the first part of your question, on ensuring that we have a strategic overview, than in discussing who should deal with the programme. I am much more concerned—

Rob Gibson: I am interested in both parts of my question.

Ross Finnie: Indeed. So am I, but SNH is funded almost entirely by my department, so simply handing responsibility for the programme to SNH would not necessarily produce a different impact or effect. I am concerned about that in management terms and process terms, but I am much more interested in achieving environmental outcomes and optimising the benefit of the spending under the LIFE+ programme. If we think that that would be better done by SNH, we will consider that, but otherwise we will not.

Rob Gibson: There is a fixed figure for the LFASS of about £61 million. What is your rationale for suggesting that that will stay the same?

12:30

Ross Finnie: In terms of the impact of LFASS support, particularly on Scottish hill farming, I refer to my earlier answer to Maureen Macmillan on the analysis of Scottish agriculture. Of course, there are exceptions to the rule. By and large, however, the majority of those who struggle demonstrably to become less dependent on subsidies are found in Scotland's less favoured areas, which by definition, are those areas with permanent disadvantage. Therefore, we already know that hill farming is under pressure and that informs what we are trying to do and where we give support—Rob Gibson will be aware of that in his area. I have not contemplated in the present funding round any reduction in the level of expenditure that I increased shortly after taking office.

Richard Lochhead: The Executive's submission refers to concern about the idea of a franchise whereby farms that receive a single farm payment of less than €5,000 would be exempt from voluntary modulation, which highlights an issue to do with Northern Ireland. Do you mean that if there is no change, money will be taken from Scots farmers and passed to Northern Ireland, because there are so many small farms there? That is how I read the submission. Have you analysed the impact that the EU proposal would have on Scotland?

Ross Finnie: I am not sure that we would suffer disproportionately because we happen to have the highest average level of holdings in Europe. Northern Ireland was cited in the submission only as an illustration; it was not intended to be exclusive. Ingrid Clayden might have some figures for you.

Dr Ingrid Clayden (Scottish Executive Environment and Rural Affairs Department): I offer some clarification. The impact on Northern Ireland is simply because it has a much greater proportion of smallholdings. Therefore, if there were to be a franchise, the rate of modulation that Northern Ireland would have to apply to achieve the same budget would be much higher, because most of the farmers would not be impacted upon. Does that make sense?

Ross Finnie: Start again.

Dr Clayden: As Northern Ireland has a high proportion of smallholdings, any franchise would impact on them in that the first €5,000 of the single farm payment would not be modulated. The rate of modulation that would be needed in Northern Ireland to get the same budget would be much

higher, because the first €5,000 would not be impacted upon.

The Convener: Hence, you are trying to withdraw that permission.

Dr Clayden: Yes.

Nora Radcliffe: Minister, in your opening remarks you spoke about the clash of regulation that meant that the LFASS payment was to be moved from spring to later in the year. Did you say that negotiation to get that moved back to spring might be possible, or did I just hear what I wanted to hear?

Ross Finnie: I said that the proposal for the £40 million payment to be followed by £20 million—which has not yet been agreed, but which we hope will be—is an attempt to deal with a one-off situation this year. I tried to make it clear that the impact of that regulation is that we will have a permanent problem with the timing of payments. We, the Scottish Crofting Foundation, the NFUS and others are currently discussing the best approach to any negotiation.

The requirement to have all the farms on the scheme checked for cross-compliance is explicit and that is what pushes us into not being able to pay out the whole scheme until nearer December. We are examining in detail the best way of addressing that situation with the Scottish Crofting Foundation, the NFUS and others and looking at the impacts and the cash flows. However, because of how the regulation is written, there is no effective way of overcoming the problem absolutely at the moment. We are looking to have more certainty about the payment in future so that it does not disadvantage the cash flows of those farmers.

Nora Radcliffe: If I understand you correctly, you might get permission to pay an element of LFASS before the cross-compliance checks and then you will even it up.

Ross Finnie: That is one of the options. If there is an agreed regulation, there is a legal basis for making the payment. It can therefore be argued that, if there is a legal basis for making a payment, a partial payment could be made. Our difficulty for next year is that we do not have a rural development programme, so we do not have a legal basis for making the payment, so we require temporary permission from the Commission to make that payment next year, because there will now demonstrably not be a finalised programme until March or April of next year.

Nora Radcliffe: The extra funding that has gone into meeting the financial disadvantage—

Ross Finnie: Will come in December.

Nora Radcliffe: I understand that that is a one-off, and that that will not happen in future years.

Ross Finnie: Indeed. The £40 million will be part of the LFASS. There will be a much lesser adjustment in December, to take account of the cash flow. The Commission now understands the timing issue much better and understands why we make the payment in March. That having been accepted, we will go back to making the LFASS payment, and there will be a minor adjustment in December.

Eleanor Scott: I would like to ask another question about the plan that we do not have. This year the rural stewardship scheme has been oversubscribed, and the organic aid scheme has effectively been underfunded because there are so many people who would like to be part of it. The RSS has proved popular and we all support its environmental objectives. How will you fund that in future?

Ross Finnie: We are concerned about how that finally came out, although there is a range of things that can be done. Of course, the competitive element of that scheme is the one that gave rise to the most disappointment, because the number of applications effectively doubled. Of greater concern was the fact that people felt aggrieved at having pitched their points total at a level only to find that the goal posts had moved. However, a wrong conclusion was drawn from that, because if everybody had actually moved their points up they would still have been disappointed. Logic tells you that if you have to make an allocation of an amount that is less than the applications, even if the amount goes up three points, that would only involve the bar going even higher, which would result in even more frustration.

I have already indicated publicly that all those schemes are now subject to a thorough review, not of the outcomes—we are pretty clear that the outcome is reasonably satisfactory—but of the mechanism for getting into those schemes and of the funding implications of doing so. That will have to be wrapped up in our final determination of the total amount of spend. We are reviewing all the schemes, so it may be that we will focus on those schemes that are producing a demonstrably better outcome and adjust other schemes, but I have not yet come to a decision on that.

The Convener: Is the LFASS money that you announced additional, or is it an interim payment?

Ross Finnie: It is an interim payment. It was originally put to us by the Commission that we did not have a legal basis to pay, and it was not particularly keen to entertain a temporary payment, so the original £10 million was the payment for interest foregone. Although we

announced the £10 million because it did not look as if we were getting anywhere, we continued to pursue the Commission about its misunderstanding of our wanting—for good reason—to make a payment at a specific time. When it accepted the logic of that argument, we reverted to making an interim payment of LFASS money, of £40 million. There will be an element of interest paid next year, and that will be included in the £20 million paid in December.

The Convener: Thank you. I wanted to get that on the record.

Eleanor Scott: We have seen recent press reports about genetically modified potatoes being grown in Cambridgeshire. We have also seen that GM potatoes are now being grown commercially in Europe, not for the food chain but for starch production. Scotland has a good reputation for seed potatoes and ware potatoes. Can you and will you keep GM potatoes out of Scotland?

Ross Finnie: I will do so if it is legal. I think that the much more important and likely pressure will come from the very seed potato and ware potato producers to which you referred. However, I am not aware of anybody being interested in interfering with the very high international standing that our seed and ware potatoes enjoy and the consequent financial returns that by and large, subject to market forces, our producers enjoy. I have not heard a whisper about anybody in the sector wanting to apply for starch production. Given that we have difficulties in managing by rotation the hectareage that is available for growing potatoes—in quite a few areas, we have quite a degree of rotation for good reasons such as the need to manage the water resource—we do not have an immediate surplus capacity available for GM potatoes. However, like Eleanor Scott, I will keep a wary eye on the issue.

The Convener: As a follow-up to that question, I want to ask whether the minister has an idea as to when the outcome of the consultation on the environmental liability directive will be published. Will the directive be transposed by the end of April 2007? That is a very tight agenda.

Ross Finnie: We should be able to measure that in days rather than in months.

The Convener: Does that mean that we are on track to transpose the directive on time?

Ross Finnie: Yes, just about. Seriously, I think that we will see the outcome of the consultation in days rather than months.

The Convener: That is helpful.

It would be useful to receive follow-up information on two issues that have been raised at today's meeting. First, it would be useful to know how the priorities for the competitive funds that

Eleanor Scott asked about pan out once final approval from Brussels is secured. Secondly, the minister's submission contains one paragraph on the franchise issue in the draft voluntary modulation regulation. The body language of colleagues around the table suggests that it would be helpful if, rather than drag out today's session, we could be sent more background on the Executive's analysis of that.

I see no one with their hand up so, as we have no further questions, I thank the minister for attending. We wish him all the best in his negotiations throughout the rest of the month.

Meeting closed at 12:42.

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