

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Tuesday 19 December 2006

Session 2

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CONTENTS

Tuesday 19 December 2006

	Col.
SUSTAINABLE DEVELOPMENT (SCRUTINY)	3815
PETITIONS	3823
Lamlash Bay (No-take Zone and Marine Protected Area) (PE799)	3823
Ship-to-ship Oil Transfers (Conservation) (PE956)	3826
Forth Estuary Ship-to-ship Oil Transfers (PE982)	3826
SUBORDINATE LEGISLATION	3831
Plant Protection Products (Scotland) Amendment (No 3) Regulations 2006 (SSI 2006/576)	3831

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

37th 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 ALSO ATTENDED:

Bruce Crawford (Mid Scotland and Fife) (SNP)

THE FOLLOWING GAVE EVIDENCE:

◇Marja Ekroos (Clerk, Environment Committee of the Parliament of Finland)

◇by video link

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Katherine Wright

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 1

Scottish Parliament

Environment and Rural Development Committee

Tuesday 19 December 2006

[THE CONVENER *opened the meeting at 09:19*]

Sustainable Development (Scrutiny)

The Convener (Sarah Boyack): We are delighted that Marja Ekroos, the clerk to the Environment Committee of the Parliament of Finland, is able to be with us by video link. I am the convener of the Environment and Rural Development Committee. Let us introduce everyone round the table so that Marja can see who we are and will not be surprised when the television camera flashes to one of us.

Trish Godman (West Renfrewshire) (Lab): I am the member of the Scottish Parliament for West Renfrewshire.

Nora Radcliffe (Gordon) (LD): I am the MSP for Gordon.

Maureen Macmillan (Highlands and Islands) (Lab): I am one of the MSPs for the Highlands and Islands.

The Convener: My deputy convener, Eleanor Scott, is to my right.

Eleanor Scott (Highlands and Islands) (Green): I am another MSP for the Highlands and Islands.

Rob Gibson (Highlands and Islands) (SNP): I am also a Highlands and Islands MSP.

The Convener: I remind my colleagues of one or two key ground rules to make the video link work best. I will try to bring everybody into the conversation when they indicate in the usual manner that they want to speak. We need to speak relatively slowly to help Marja Ekroos, who will be translating simultaneously from English. We must not speak over one another, although I am sure that we will not be having that kind of argument. We should try to avoid rustling papers. There will be a slight time delay in sound. Everybody is on screen all the time, even when we are not speaking. Our mobile phones and BlackBerrys must be turned off.

Ted Brocklebank, Richard Lochhead, Alasdair Morrison and Elaine Smith have sent apologies. Trish Godman is attending the meeting as a Labour Party substitute for Alasdair Morrison.

The committee is considering best practice for sustainable development and how we scrutinise it in our parliamentary work. Last week, we took evidence from our Minister for Environment and Rural Development and our Sustainable Development Commission. This morning, we want to ask Marja Ekroos about practice in Finland, because our researchers have identified the Parliament of Finland as one that leads on sustainable development. We do not expect perfection, but we are interested in how you have slotted sustainable development into your Parliament's considerations. Nora Radcliffe will kick off with the first question.

Nora Radcliffe: Good morning. External research has suggested to us that it would be useful for the Scottish Parliament to develop a checklist to help committees assess sustainability. Do you do that in Finland, and if so, how well does it work?

Marja Ekroos (Clerk, Environment Committee of the Parliament of Finland): Thanks for the question and good morning to you all. I am sorry that Mrs Hautala could not be here today, but I will try my best to answer your questions. I hope that you can hear me properly.

I do not know how much members already know, but I will try to describe our working habits. The Prime Minister's office has just published our new principles and guidelines for sustainable development. Our sustainable development commission is located in the Prime Minister's office, and members of our committee are involved in its work so that we can contribute to setting the guidelines on how to proceed towards sustainable development.

In the new publication, we have once again set out our goals and highlighted various targets. We do not have any special checklists, but we have identified areas of substance on which we need to make progress, which include adaptation to climate change, restriction of CO₂ emissions, the promotion of methods of sustainable consumption, sustainable use of renewable natural resources—especially wood—and sustainability in building, planning and traffic. Those are the areas in which we are trying to make progress. We are focusing particularly on the promotion of sustainable consumption methods and have just decided to establish a special material-use efficiency centre. The idea is that the centre will provide all members of society with information on how to advance in the use of sustainable materials.

Nora Radcliffe: It sounds as if your new publication contains a list of actions that people should take under various headings. Is that correct?

Marja Ekroos: That is right. One could call the document a set of guidelines on various areas in which, naturally, the Administration is the main focus. It is primarily the various ministries that need to take action on the matters of substance, of course, rather than individual citizens, although that level is reached indirectly. The idea is to get something more concrete done to achieve the goals.

We need to create ways in which to promote the adoption of sustainable consumption methods—we cannot just transfer the responsibility to individual consumers. Information needs to be gathered and relayed and products and policies need to be developed so that consumers can make decisions on how to behave.

The Convener: That outlines clearly how the Government sets its framework for thinking about sustainable development. How does the Parliament take the lead in scrutinising whether the Government is achieving its objectives through the guidelines? Is that the Environment Committee's responsibility or is it shared by a number of parliamentary committees?

09:30

Marja Ekroos: I would say so. Even though the guideline document is accepted by the Council of State or the Prime Minister's office, it contains no concrete indicators on how to measure development. When the Environment Committee handles a law proposal or deals with a European Union matter, it must assess how the Government has reacted and check that any bill is in accordance with the guidelines. That is what we do when we write a statement on a law proposal. We analyse how it aims to achieve the goals that have been set out, which are extremely remote. It is a baseline document. When the Government drafts a bill, it needs to outline how the environmental aspects have been taken into account. We analyse whether we agree with the Government on that part of the bill.

I will give an example. At the moment, we are dealing with a law proposal on the energy efficiency of buildings, which emerged from a directive. The basic question that we are analysing is whether the Government's proposal goes far enough. Building standards in Finland are already high because of the cold climate, but new technologies have made it possible to go much further. That is a concrete example of a discussion that we are having about whether a proposal is in line with the aim of sustainable development and the restriction of CO₂ emissions.

Maureen Macmillan: Do you find that there are any tensions between the Environment Committee and other committees, which may be more

concerned about economic development or the social impact of legislation? Sustainable development obviously involves the balancing of environmental, social and economic factors. Has there been any training for members of the Finnish Parliament or for civil servants in sustainable development issues?

Marja Ekroos: That is a good question. If I were an MP, I do not know how I would answer but, as a clerk, I can say straightforwardly that there are tensions. You are right that sustainable development has three dimensions. Although the Environment Committee tends to concentrate on the ecological side of things, it is becoming more obvious in the eyes of the Parliament as a whole that we cannot separate the economic from the ecological, so the more effective one is ecologically, the greater the economic benefits will be, especially in the long run.

A good example is energy-efficient buildings. It may cost 1 or 2 per cent more to build an energy-efficient building, but that will be got back in five years or—if oil prices increase—two years. These days, we can find ways of combining the economic and ecological aspects more effectively. The fact that the effects of climate change are more obvious is making it easier to combine those two elements.

Maureen Macmillan: Has there been any training for civil servants or members in the principles of sustainable development?

Marja Ekroos: Not specifically. The members of the Environment Committee have received their training in everyday life, because sustainable development is part and parcel of all our work in everyday life.

Trish Godman: Have you had any cross-border discussions on sustainable development? If so, what have you learned from them?

Marja Ekroos: Do you mean discussions with our neighbouring countries?

Trish Godman: Yes.

Marja Ekroos: As far as discussions with Russia are concerned, because the levels of environmental impact are so different we do not always agree. We have daily discussions with Russia on environmental impacts on, in particular, the Baltic sea. The growth in the transportation figures is amazing. One of the main issues is that oil and chemical transport is increasing terribly. Another major issue is the rapid development of industrial installations—nuclear power plants among others—that are being built very close to our border; Russia has not ratified the Espoo convention on analysing the environmental impacts of such installations, but we try to keep the discussion going. It is true that the border is

one of the deepest in the world, so to speak, when we consider the differences between the economic situation on each side.

We are on a level playing field with Sweden and have more normal relations. I do not know whether I have answered your question. It is, of course, a very special neighbour.

Eleanor Scott: You said that the Environment Committee tends to take the lead role in scrutinising the Government in relation to sustainability. What is the Committee for the Future's role? I do not understand what it does.

Marja Ekroos: The Parliament and the Environment Committee have taken a proactive role in drafting legislation. We tend to analyse it more deeply than we did previously.

In the past 10 years we have developed an active international role, which means that we take part in all major international convention meetings, such as the climate change meeting in Nairobi in Kenya a month ago; the meetings on the biodiversity convention; and meetings on the certification convention. We have been at all the major climate change conferences, including the environment and development conference in Rio in 1992. In that way, our role differs from that which is played by your Parliament and the Parliaments in other European Union member states. We try to be an active player on international conventions. Of course, there are meetings between the Governments and we do not have a seat at the negotiating table. However, we want to be at those meetings because we believe that being there gives us a better opportunity to understand and analyse more deeply the final implications of the negotiations when it comes to drafting a bill and putting provisions in articles. I have noticed that that is different from other countries.

Eleanor Scott: Does your Committee for the Future have a role in sustainability? Is its focus economic, or does it also consider environmental issues and sustainability issues?

Marja Ekroos: Our Committee for the Future? I am sorry; I misunderstood you. Our Committee for the Future decides case by case what to handle. It could handle an environmental issue, but at the moment it is working on issues related to Russia and its previous inquiry concerned health issues. Perhaps the Committee for the Future believes that there are other issues that it is more appropriate for it to handle now. Perhaps the Environment Committee has such a strong role in the Parliament on environmental issues that there is no room for manoeuvre.

Eleanor Scott: Does the Environment Committee consider the sustainability of every

piece of legislation that comes before the Parliament? Does it examine all legislation?

Marja Ekroos: We consider all draft proposals that might have environmental implications. We are responsible for handling environmental issues, but when the Parliament deals with energy issues we always give our statement to it. When there is a proposal for an environmental law, it is for the Environment Committee to write a report on the basis of what is decided on in the plenary, but when a proposal on another matter might have environmental implications, we give our statement to the committee that will write the report. In that way, we can contribute on all the issues that might relate to the environment.

Rob Gibson: I think you said that Environment Committee members were involved in both the Committee for the Future and the national commission on sustainable development. How does that work?

Marja Ekroos: I am sorry; my comments have been unclear. Environment Committee members are not all members of the Committee for the Future. Some might be, but not all of them.

Rob Gibson: So, there is a crossover. Parliamentarians are members of the Committee for the Future and of the national commission on sustainable development.

Marja Ekroos: Yes. Some of our members are also members of the national commission on sustainable development and some, but not all, are members of the Committee for the Future. The committee has 17 members; not all of them can be on all three bodies.

I will explain the situation so that you get the correct picture; I am sorry for being unclear. The national commission on sustainable development is a broad-based commission, which is an initiative of the Prime Minister's office. Therefore the commission, which includes members of various ministries and non-governmental organisations as well as members of Parliament, is not a parliamentary organ. The Committee for the Future, on the other hand, is a parliamentary committee.

09:45

Rob Gibson: Thank you—I understand now. What is the benefit of having MPs on those bodies?

Marja Ekroos: We get everyone involved. Because Finland is such a small country—we have only five million people, so we know one another—we always try to involve everyone and reach compromises. As a result of that way of thinking, contacts between the Government and the Parliament are pretty tight—perhaps the links

are closer than they are in other countries. The NGOs are also pretty closely involved in discussions from the beginning. I would need to know more about other countries' systems before I could make comparisons with Finland, but I believe that Finland's being such a small country makes it more possible for people to work together from the beginning, which sometimes makes things easier at the end of the process.

Rob Gibson: In Sweden, there is a commitment to be carbon free by 2020. An overarching strategy like that can more easily be agreed in a small country such as Finland. Can you give an example of a similar policy in Finland and tell us how it emerged through the bodies that you have described?

Marja Ekroos: We do not have as strictly defined a policy as the one that you mention. In Finland we are rather pragmatic and tend not to set aims that are tied to dates, such as an aim to be carbon free by 2020 or 2030. Instead, we set out overall aims. The guidelines on a sustainable Finland that I mentioned consider more generally how we can become carbon free. Perhaps because of cultural differences in Finland, which partly relate to our historical experience, we like to set aims that we know we can achieve. The principles of adaptation to climate change and restriction of CO₂ emissions are in our document, so our goals are the same as those of the Swedish statement. We think that perhaps we need to move more quietly in that direction, but our aims and even the measures that we are taking are pretty much the same as the approach in Sweden—it is the political announcements that are different.

Rob Gibson: Is the document that you mentioned translated into English?

Marja Ekroos: Unfortunately I did not have time to check before the meeting, but I will do so. I think that the document is translated into English—if it is not yet translated, it will be, and I will be happy to send you a copy. The 20-page summary of our document on promoting sustainable consumption methods has been translated into English.

The Convener: It would be helpful for the committee to receive copies of the documents, either on paper or through e-mail.

Marja Ekroos: I think that we can provide them.

The Convener: It has been useful to ask you questions, but I am conscious that we must not keep you all morning. Will you reflect on the difference that the Finnish Environment Committee's scrutiny has made? Also, to what extent are parliamentarians who are not members of the committee willing to accept the committee's judgment when, for example, it asks for more demanding legislation than the Government

proposes? Do parliamentarians think that the Environment Committee's view should be listened to, or do they simply note the committee's view and move on?

Marja Ekroos: That is another good question. Of course, it depends on the matter being considered: parliamentarians are more difficult at some times than they are at others. However, from my three years' experience I can say that the situation looks pretty good. Times are changing and how we discuss climate change, for example, is a million years away from how we discussed it three years ago. There has been rapid development. There will be parliamentary elections next March and the arguments and aims that the Environment Committee emphasises, on restriction of CO₂ emissions or waste generation, for example, can be found in every party manifesto. Such issues prepare the ground for all subsequent work and we need to get down to the basics, by promoting sustainable consumption from the outset.

The Convener: On behalf of the Environment and Rural Development Committee, I thank you for your helpful answers. Our committee is trying to work out how the Scottish Parliament should best scrutinise the Scottish Executive, which has produced documents that are similar to the ones that the Finnish Government has produced. There are policies on climate change and sustainable development, and our job is to test the success of programmes as they are implemented. It is helpful to hear your comments on how the system works in Finland. I am particularly grateful to you for stepping into the hot seat this morning. Your answers were very clear. Thank you for taking part.

Marja Ekroos: Thank you very much. I hope that it was helpful to you.

The Convener: It was helpful, thank you.

I suspend the meeting for five minutes so that the television sets can be removed. I ask people to bear with us, please.

09:54

Meeting suspended.

10:00

On resuming—

Petitions

Lamlash Bay (No-take Zone and Marine Protected Area) (PE799)

The Convener: Agenda item 2 is petition PE799, by the Community of Arran Seabed Trust, which proposes a total closure of an area of Lamlash bay to all forms of marine life extraction—a no-take zone—and the closure of the rest of the bay to mobile fishing gear, which would be a marine protected area.

Colleagues will recall that we had a discussion on the petition a couple of months ago. After we considered the evidence, we requested that the Executive use the remainder of 2006 to establish urgent negotiations with the interested parties to find out whether a proposal could be developed with a view to implementing a scheme in 2007. We achieved an initial agreement between the fishing community and the petitioners—an interesting development that took place in the margins of the meeting—which meant that when I wrote to the Minister for Environment and Rural Development, I was able to suggest one or two additional proposals that related to the scale of the developments. We have had positive responses from fisheries officials in the Executive and from Scottish Natural Heritage and we have now received a reply from the minister. Further discussions have taken place and COAST, SNH and the Clyde Fishermen's Association are continuing to work on a proposal.

I welcome the minister's comment that any proposal is likely to merit having a statutory underpinning, given that one of our concerns was that a voluntary approach would not be sufficient. Further discussions, which will include Fisheries Research Services, are to take place in January. We do not have a timetable for the work thereafter. I have circulated an update letter from COAST, which states that a planning application for a major fish farm development in the area has recently been made. Members have seen the recommendation in the paper from the clerk. We are not quite at the end of our deliberations on the petition. I would like to return to the issue and to receive feedback on the January meeting. It is not our job to deal with planning matters, but I want the committee to watch what happens with the planning application as it progresses. We should note the progress that has been made and keep the petition on our agenda.

Trish Godman: This is probably a dumb question, but I am only at the committee now and

again. If the Crown Estate objects to the application, where do we sit? Are we or Westminster overruled by the Crown Estate?

The Convener: The application will go through the planning process and the issue is entirely for the Scottish Government. The application may go to the Scottish Executive inquiry reporters unit and it might or might not be a complicated application—we do not know. This committee has no relationship with individual planning decisions, nor does the Communities Committee, but we have oversight of such issues—I put it no more strongly than that. There is a suggestion from COAST that may scupper the application. We cannot close our consideration of the petition, but there is nothing, apart from watching, that the committee can appropriately do in relation to the planning issues.

Nora Radcliffe: If we feel strongly about the matter, we could express an opinion to the planning authority for it to consider as part of its deliberations on the planning application, but we would need to feel very strongly before we did that.

The Convener: The clerk tells me that COAST and the Clyde Fishermen's Association have objected formally to the application and have discussed the matter with SNH and the Scottish Executive Environment and Rural Affairs Department, so concerns are on the agenda. I am reluctant for the committee to take a view on a planning issue because that would open up that possibility to everybody who might think that planning issues are relevant to the committee.

Nora Radcliffe: Yes—that would probably not be appropriate.

Rob Gibson: We are at a point at which powers of the Crown Estate will be transferred to the planning authorities. Using the powers under the Freedom of Information (Scotland) Act 2002, we have found out that more than half the fish farm sites that the big companies own have not been used in the past four years. We are talking about a speculative application, which is not yet at the stage when local authorities, Parliament and Government get involved.

Given the amount of discussion that there has been of COAST's proposal and the collaboration between environmentalists and fishers in the community project, which will set an example, I feel strongly that the planning application for the fish farm—which has come out of the blue—looks like a spoiler. We have shown our disapproval on the record, which can be transmitted to other places. As the convener said, we should keep the petition open and see how things develop.

Eleanor Scott: I agree with what other members have said. The COAST people, whom

we met on our visit, feel that the proposed management arrangement could be an exemplar because the site is well used and there is an existing small fish farm and a mussel farm, so the bay is not pristine. The two farms were felt to be in proportion, appropriate to the area and liveable with. The proposed fish farm seems to be completely inappropriate to Lamlash bay, given its scale. I sincerely hope that it can be stopped by due process.

The Convener: I suggest that we agree not to close the petition, that we to write to the minister to welcome the progress thus far and that we pass on the concerns that have been expressed to us about the proposed development that could knock the COAST proposal off course. As other members have said, we are in a public meeting, so our comments are all on the record.

Nora Radcliffe: The main thing is that the COAST proposal should go ahead—we should not be diverted by the fish farm proposal. We should say that we are delighted about the progress that has been made and that the proposal looks like progressing further.

The Convener: Such would be the tone of my letter. In my previous letter, I referred to our debate and our discussions with the fishing community and COAST about options on how to proceed. We will want to keep a close eye on developments.

Rob Gibson: If there were to be a statutory arrangement, what form would it take? Would the minister consider making a several order or a regulating order?

The Convener: It would be for the minister to explore the best way to proceed. Previously, we heard that fishing legislation exists that would allow him to act on the proposal. The fact that we now have it on the record that the minister agrees with us that there should be some form of statutory underpinning of the proposal is a big step forward.

Rob Gibson: I asked the question because a consultation about regulating orders is due to close at the end of the year. That is of interest, given the kind of secondary legislation with which we have to deal. The Rural Affairs Committee—one of our predecessor committees—dealt with the regulating orders that were introduced in Shetland in 1999. It would be useful for us to have some inkling of what kind of orders would be needed.

The Convener: We could certainly ask. I imagine that the minister has considered the existing legislation, as we did before we heard from COAST. There is the opportunity to use the existing legislation. We will return to the petition at a future meeting.

Ship-to-ship Oil Transfers (Conservation) (PE956)

Forth Estuary Ship-to-ship Oil Transfers (PE982)

The Convener: Our next item is consideration of petitions PE956 and PE982, which are both on ship-to-ship oil transfer and which the Public Petitions Committee has recently referred to us.

PE956 by Mary Douglas calls on Parliament to urge the Scottish Executive to ensure that the Conservation (Natural Habitats, &c) Regulations 1994, as amended, are applied in relation to ship-to-ship oil transfers in Scotland. PE982 by B Linden Jarvis calls on Parliament to consider and debate the implications of proposed transfers of oil, ship to ship at anchor, in the Forth estuary, specifically focusing such consideration and debate on the likely impact of such operations on wildlife, tourism, local authority funding of clean-up and on how Parliament may use its powers within the 12-mile tidal limits to protect the local ecology, scenery, environment, areas of special scientific interest and habitats within the estuary.

Colleagues have copies of the petitions, the correspondence that has been considered by the Public Petitions Committee, a briefing paper from the Scottish Parliament information centre on ship-to-ship oil transfer in the Firth of Forth and a paper from the clerk about how we could deal with the petitions. We are joined by Bruce Crawford MSP.

Eleanor Scott: Our consideration of the petitions is timely, given that our marine environment inquiry is coming up. The petitions raise issues relating to our marine environment and the various legislation and directives that make conflicting demands on it. It would be helpful to focus on the petitions as a test case in relation to how we regard the marine environment and how we maximise our use of it while protecting it. I am aware that our time for the inquiry is limited, but it would be nice if we could fit in a bit of scrutiny of the issues that the petitions raise.

I read the material on the petitions last night on the train. It is clear from the submission from Fife Council that quite a lot of questions are either not answered or have been only partially answered, and that various legislation and directives, which might or might not be complied with, are involved. There is a lot to consider and it might be useful for us to rootle around in it all.

The Convener: I agree that there are many issues to do with process, as well as the big policy question of whether ship-to-ship oil transfer is a good idea.

Trish Godman: I do not know whether this is a process issue—I apologise if the committee has

considered it already. Has any attention been paid to the state of the ships that will carry out ship-to-ship oil transfer? Do not ask me where I picked this up, but in America the ships that are involved in oil transfers are double hulled. When I was on holiday in Ullapool and watched—excuse me if the term is racist—Russian klondykers, I thought that there was no way I would cross the Clyde in them, never mind use them to transfer oil. Is there statutory guidance that says that the ships must be sailable and able to do the job? That strikes me as being fundamental. There is no point in processing and agreeing ship-to-ship oil transfer if the ships are in such a state that they are going to spill oil anyway. It is interesting that the papers say that there has not been any spillage, but they were referring to areas that were protected, given where the ships were.

The Convener: This is the first time the committee has dealt with the issue. We had a debate on the matter in Parliament earlier in the year—I think it was in March—in which one or two members of the committee took part. I certainly sat in on it. It is fair to say that the papers raise a number of questions, such as who would be responsible for cleaning up on shore. That is a local authority responsibility, so authorities must make contingency plans, even though there is no funding for that. There are questions about the role of Forth Ports, which is the responsible body under the habitats directive but which is a private organisation. There are lots of process issues to do with who is in charge and who is responsible.

The fundamental question—which was asked in the debate—is what the role of the Scottish Executive is. Parts of the legislation to do with maritime issues are reserved and parts of the legislation to do with environmental management are devolved—I am thinking in particular of the habitats directive. Members will have noticed the interesting comment from SNH about the species it thinks are most likely to be put at risk, such as cetaceans—dolphins and whales—which are protected. Other submissions refer to the significant colony of seals that we have in the Firth of Forth and the potential impacts as far as Berwickshire. There are a lot of big issues that we have never dealt with.

We should deal with the issue as part of our upcoming marine inquiry although, in order to ensure that we do not subsume it within that inquiry, we should have a special meeting during that inquiry in which we would deal only with this issue and speak to relevant witnesses. That would ensure that the matter was dealt with as part of the marine inquiry and that we did not simply generalise all the questions. We do not want either to have the marine inquiry dominated by the matter or to lose the issue in that inquiry. If we were to deal with it as I suggest, we would give the

matter appropriate scrutiny as soon as possible and we would be able to generalise issues and feed them back into our marine inquiry.

Bruce Crawford has a strong interest in the subject.

10:15

Bruce Crawford (Mid Scotland and Fife) (SNP): I thank the committee for allowing me to take part in the discussion. I agree with the convener. The issue that the petition deals with is so complex that the outcomes of an inquiry into it might derail the marine inquiry, so you are quite right to try to contain the issue.

On the issue that Trish Godman raised about the types of ships that would be used, a lengthy and complex environmental assessment was made of the proposals that were submitted to the Maritime and Coastguard Agency. It detailed the types of ships that would be used and where they would come from. There are concerns about the adequacy of the assessment in that regard. However, it accepted that there will be oil spills in the Forth every 10 to 20 years as a result of ship-to-ship transfers and it recognised the numerous hazards that exist in the estuary, such as craggy rocks, mist and the danger that the mother ship and the transfer ship might come together. It was quite detailed work although, to some people's minds, it was not as thorough as it could have been.

As the convener suggested, it is a remarkably complex subject. Obviously, some of the legislative background goes back to when Forth Ports was privatised, when no one envisaged that that private company would in effect end up acting as a public authority in approving activity such as we are discussing. That is not to criticise Forth Ports, which finds itself in this position, but I have no doubt that there is a considerable conflict of interests for the company in what it is being asked to do.

The Forth has many special conservation areas and the activity that we are discussing could impact on the wildlife in the estuary. As the committee will have seen from correspondence from Fife Council, there is great concern about impacts on tourism and the economy. People see that the potential benefits of the activity are outweighed by the dangers.

I have been heartened by the all-party opposition to the proposals. That opposition is not a knee-jerk reaction, but has resulted from people's belief in the need to examine the issues. The all-party process might not have been collaborative, but it has certainly been complementary; for example, the Labour Party in Fife took a petition to the European Parliament

and I visited the European Parliament with our MEP, Alyn Smith and raised a complaint with the Commission. A lot of work has been going on behind the scenes.

The sheer complexity of the situation has led to people being unsure about who is responsible for what. The most glaring issue in that regard relates to whether Forth Ports or the Scottish Executive has responsibility for implementation of the EU habitat directive. Forth Ports, the Scottish Executive and Scottish Natural Heritage all think that Forth Ports has that responsibility, with a signing-off process that involves the Scottish Executive. However, it is clear that Westminster thinks that the Scottish Executive has responsibility. In answer to a question from Mike Weir—one of my colleagues at Westminster—Dr Ladyman, the Minister of State for Transport at Westminster, stated:

"Furthermore, under regulation 44 of the Habitats Regulations, there is provision to license activities that could disturb a European protected species, or damage or destroy breeding sites or resting places. As this is for a devolved purpose, it is the responsibility of the Scottish Executive to determine whether a licence would be required for ship-to-ship transfers in the Firth of Forth."—*[Official Report, House of Commons, 25 July 2006; Vol 449, c 1308W.]*

Not only do we have complexity, we have uncertainty. That makes the suggestion that was made by the convener about how to handle the matter in the context of the marine inquiry all the more pertinent. The committee would do everyone a favour if it were to take that suggestion on board.

Rob Gibson: In the context of our discussion with the Finnish Parliament's Environment Committee clerk, if sustainable development is to be a strategic policy of the Government that people buy into, issues such as the one that we are discussing must fit in with that policy. The issue has implications for areas other than the Forth: there have been ship-to-ship transfers around the Orkneys for some time—they are conducted in an enclosed area there—and there is talk about using the Orkneys as an entrepot in which large ships from the big seas could transfer oil to small ships that would be used on the narrow seas, which is a proposal that could create economic benefit. The issue is important to the country, but has to be weighed up with regard to the dangers that are involved. Some of the reserved issues about the quality of shipping—which are dealt with by the International Maritime Organisation—are pertinent, particularly when we think of oil spills around the coasts of the west of Europe in Brittany, England, Scotland, Orkney, Shetland and so on and the move towards double-hulled vessels.

Any approach must include discussion with witnesses, during which we can deal with many of

the issues that I have raised. The Environment and Rural Development Committee has a view with regard to sustainable development. That should be at the heart of any decision that is made.

The Convener: I have just had a brief discussion with Mark Brough, the clerk. The best that we could do would be to have a special meeting in February as part of our marine inquiry, at which we would talk to the two petitioners and others who are involved in the matter. If we have one meeting in which we properly burrow into the issue, we will deal with the petitions appropriately and be able to feed the information that we gather into our marine inquiry. We will get the clerks to write to the petitioners to make them aware of our plans. Do members agree?

Members indicated agreement.

The Convener: That has given the clerks yet more work to do with witnesses. However, I have every confidence that they will be able to work up a good meeting for us.

Subordinate Legislation

Plant Protection Products (Scotland) Amendment (No 3) Regulations 2006 (SSI 2006/576)

10:23

The Convener: The Subordinate Legislation Committee has forwarded us no comments on the regulations. Do colleagues have any comments?

Eleanor Scott: I am afraid that I am beginning to become a bit of a negative-instrument pain, but I am wary of simply nodding through legislation that we do not understand. Although I have no particular quarrel with the additional substances that are being added to the list that is referred to in the regulations—because I do not know what they are—I find the list odd. It is supposed to relate to plant protection but it includes three weedkillers, including paraquat, which is a substance that does not protect plants. The list also includes warfarin, which doctors use as an anticoagulant blood thinner and which other people use as a rat poison. Again, I am not sure what that has to do with plant protection. I am not sure what chemical substances have to do to get themselves on the list, so I would like more explanation. The list refers to the chemicals as “pesticides”. Something that kills rats might be considered to be a pesticide, but would be outwith the range of what I would consider to be a plant pesticide.

I am reluctant to approve legislation that I do not understand. As is often the way with statutory instruments, I do not think that my reading of the Executive notes has contributed greatly to my understanding.

Nora Radcliffe: The instrument is simply saying that the substances cannot be used without permission. It is further restricting their use, which is probably a good thing.

Eleanor Scott: That is probably a good thing, and I am sure that the instrument is fine, but I am reluctant to say yes—or, at least, not to say no—to something that I do not fully comprehend.

The Convener: It is not a huge problem: we have a bit of time to reconsider the instrument in January. The policy memorandum explains that it is a mixture of different kinds of chemicals that are used for different purposes. The instrument includes chemicals that are used as pesticides, but which also have other uses.

The background section in the Executive note states:

“Active substances used in pesticides are evaluated at EU level and those that are found to be acceptable in terms of effects on people and the environment are authorised by

means of inclusion in Annex 1 of the Directive.”

However, that is about another seven pesticides, and more than one directive is involved, so we may require a bit more background briefing on the instrument.

Eleanor Scott: That is possible.

The Convener: I suspect that we will still agree to the instrument.

Eleanor Scott: I am sure that we will.

The Convener: Are colleagues happy to put the instrument on our agenda for January and to ask for a fuller note explaining the background to the directives in terms of what they do and how the instrument slots in?

Members indicated agreement.

The Convener: We move into private session—as agreed at our meeting on 13 December—to discuss our approach to our inquiry into the scrutiny of sustainable development.

10:26

Meeting continued in private until 10:56.

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