

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 24 January 2007

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

3rd Meeting 2007, Session 2

CONVENER

*Maureen Macmillan (Highlands and Islands) (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)

*Mr Alasdair Morrison (Western Isles) (Lab)

*Peter Peacock (Highlands and Islands) (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:

Sarah Boyack (Deputy Minister for Environment and Rural Development)

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

THE FOLLOWING GAVE EVIDENCE:

Dr Christopher Cutts (Scottish Sustainable Marine Environment Initiative)

Ross Finnie (Minister for Environment and Rural Development)

Isabel Glasgow (Scottish Sustainable Marine Environment Initiative)

Dr Lorraine Gray (Scottish Sustainable Marine Environment Initiative)

Gordon Mann (Scottish Coastal Forum)

David Wilson (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 2

Scottish Parliament

Environment and Rural Development Committee

Wednesday 24 January 2007

[THE CONVENER *opened the meeting at 10:05*]

Interests

The Convener (Maureen Macmillan): Good morning. I welcome committee members, the public and the press. I remind everybody to switch off their mobile phones.

We have received apologies from Elaine Smith, whose place on the committee this morning will be taken by Trish Godman. Mark Ruskell may attend for agenda item 4.

The Parliament agreed on 17 January that Peter Peacock should replace Sarah Boyack as a member of the committee. I welcome Peter Peacock to the committee and, under agenda item 1, invite him to declare any relevant interests. The members' code of conduct states that it has been established as good practice that members should declare interests relevant to a committee's remit at the first meeting of that committee that they attend, in addition to declaring interests that are relevant to any particular items of business as they arise in the future.

Peter Peacock (Highlands and Islands) (Lab): Thank you, convener. I draw the committee's attention to my registered interests. Beyond that, it would be appropriate to draw to the committee's attention that I am a former member of the board of Scottish Natural Heritage, and a former member of Highland Regional Council and Highland Council. I participated in land use and nature conservation site designations that are still in force today. Further, I served on the Cairngorms working party prior to the establishment of the Cairngorms Partnership, which preceded the national park; I also served on the Cairngorms Partnership for a short period of time. Finally, I am a member of the Scottish Ornithological Club.

The Convener: Thank you for that very full declaration of interests.

Aquaculture and Fisheries (Scotland) Bill: Stage 2

10:07

The Convener: Agenda item 2 is the first day of stage 2 proceedings on the Aquaculture and Fisheries (Scotland) Bill. I welcome Sarah Boyack, the Deputy Minister for Environment and Rural Development. She will steer us through stage 2, from the Executive's perspective. I extend that welcome to the minister's officials.

Members should have before them a copy of the bill as introduced; the marshalled list of amendments that was published yesterday; and the groupings of amendments, which sets out the amendments in the order in which they will be debated. The running order is set by the rules of precedence governing the marshalled list. Members should remember to move between the two papers. All amendments will be called in strict order from the marshalled list—we cannot move backwards.

The target for today is to reach the end of section 19. There will be one debate on each group of amendments. I will call the member who has the first amendment in each group to move that first amendment and speak to all the other amendments in the group. Members who are not proposers of amendments in the group but who wish to speak should catch my attention in the usual way.

Debate on each group will be concluded when I invite the member who moved the first amendment in the group to wind up. If the minister has not already spoken in the debate on any group, I will invite her to comment just before we hear the winding-up speech. Only committee members are entitled to vote. After we have debated the amendments, the committee must decide whether to agree to each section. A short debate on that point will be allowed, if it will be useful to allow discussion of points that have not been raised by the amendments.

There are no amendments until section 6, so the first question is, that sections 1 to 5 be agreed to.

Sections 1 to 5 agreed to.

Section 6—Enforcement notices

The Convener: Amendment 1, in the name of Alasdair Morrison, is in a group on its own.

Mr Alasdair Morrison (Western Isles) (Lab): Amendment 1 makes provision for appeal against enforcement notices. Members will recall that the issue exercised many witnesses during our evidence-taking sessions. The committee is well

aware of the nature of the amendment. I am sure that all members will be sympathetic to it; I hope that our former convener remains sympathetic to the purposes of the appeals mechanism that I propose.

Without further ado, I move amendment 1.

Rob Gibson (Highlands and Islands) (SNP): I would like to explore further the timescales that would be involved. Involving a sheriff could lead to an extended period between the putting in place of an enforcement notice and resolution of the matter. There seems to be no time limit for the process. When dealing with enforcement, it is important that there should be a guarantee of timescales. I would like to hear what the minister has to say about the application of the amendment, should it be agreed to.

The Deputy Minister for Environment and Rural Development (Sarah Boyack): I very much welcome Alasdair Morrison's amendment on appeals. As committee members know, the Executive agreed to lodge an amendment at stage 2 to introduce some form of appeals mechanism for persons on whom an enforcement notice has been served. Having examined Alasdair Morrison's amendment, I believe that it achieves everything that we would look for in such a mechanism. I support the amendment.

I will address the specific point that Rob Gibson raised. I know that there are concerns about timescales, but it is important to put on the record that anyone who wished to lodge an appeal would have the relatively short period of seven days in which to do so. Amendment 1 provides for summary appeals. That means that the procedure following an appeal would be relatively swift, as the matter would be referred to the sheriff; I hope that that deals with members' concerns. The amendment is a good one, which addresses some of the concerns that people expressed to the committee at stage 1. For that reason, I encourage members to support it.

Mr Morrison: The minister has addressed all the points adequately, so there is no need for me to wind up.

Amendment 1 agreed to.

Section 6, as amended, agreed to.

Section 7—Code of practice

The Convener: Amendment 24, in the name of Rob Gibson, is in a group on its own.

Rob Gibson: At stage 1 the committee was exercised by the potential for review of the code of practice. We were concerned that the code should promote best practice, rather than provide a lowest common denominator. However, some of the elements of the code depend on the use of

existing sites for fish farms in a satisfactory fashion. As we know, the industry's policy is to fallow some sites. However, from information secured under the freedom of information regime we gather that up to half of the sites that have been licensed are not being used in the current year. Through amendment 24, I intend to probe the way in which the system works by flagging up the fact that the committee and the Parliament are concerned to ensure that the time that may elapse without a site being used for operations will be included in the code of practice and within the purview of the bill.

I move amendment 24.

10:15

Sarah Boyack: I accept Rob Gibson's desire to probe on the issue, so I will take slightly longer over amendment 24 than I did over amendment 1. Amendment 24 is basically a use-it-or-lose-it provision and would undermine investor confidence in the industry. The Executive is concerned that it could represent overregulation and would be seen as the Government trying to micromanage business decisions. The bill strikes a balance that we are keen to retain. I acknowledge that, at stage 1, the committee considered the underuse of sites to be an issue, but it also recognised the need for some flexibility.

The aquaculture industry in Scotland must remain competitive in a highly competitive international market. Large multinational and smaller indigenous companies need to be able to access suitable sites that can be used routinely or at short notice in an emergency to respond to changes in the disease status of other sites—for example, to retain production levels if other sites need prolonged fallowing for disease control—or market conditions. Therefore, there could be sound commercial reasons for deciding not to commence production on a site. If anyone—particularly another fish farm operator—were to think that a particular operator was abusing its market position, they should take that up with the competition authorities.

Given the committee's previous interest in the issue, I will make a brief comment on planning issues and the Crown Estate, which was mentioned in the committee's stage 1 report. To be clear, site availability is not governed by planning legislation or the Crown Estate lease conditions because neither can be used to force an operator to give up a site for underusing it. Under planning legislation, the deployment of minimal plant at a site would constitute use. The Crown Estate considers that its lease conditions do not permit it to force a leaseholder to use a site but it has changed its rental provisions to increase payments for sites that are in long-term fallow.

Rob Gibson has raised an important issue and I recognise the committee's general concerns about it. I know that many people hold strong views on the issue. We are taking an interest in work that the Crown Estate, the Fisheries Research Services, the Scottish Environment Protection Agency and the Scottish Salmon Producers Organisation are undertaking on site use and availability and efficient site sharing among key players. We will keep an eye on that research.

I urge committee members to reject amendment 24 and I hope that, after listening to my comments, Rob Gibson might be persuaded to withdraw it.

Mr Morrison: I thank the minister for that detailed explanation. As I am sure she will fondly recall, underuse of sites was raised time after time at stage 1. I would appreciate it if the minister could give us guidance on the procedures that are involved in notifying the competition authorities and how quickly a dispute could be resolved. It could be that two or three people own a small indigenous farm and, a few hundred yards down the sea loch, a multinational owns a perfectly good site that has not been used and has, in effect, been sterilised, thereby denying the community the use of a perfectly good piece of sea loch. If the minister is not in a position to explain today how and in what timescale the competition authorities would help to resolve that, I would be pleased to accept her assurance that she will give me a detailed response in writing later this week.

Sarah Boyack: It might be helpful for me to reassure the committee that, as my predecessor Rhona Brankin said, the Executive is working with the competition authorities on the issue. We will certainly keep the committee informed of any progress that we make through our liaison with them and the Department of Trade and Industry.

I would be more than happy to write to Alasdair Morrison later in the week about the exact procedure that should be followed. I do not have that information at my fingertips for obvious reasons—the competition authorities are separate from the Executive—but I am happy to ensure that he gets it if it would be helpful to him.

Richard Lochhead (Moray) (SNP): Is the minister aware of whether companies apply for new licences when they already have sites that are unused? To me, that is the crux of the issue. If companies were doing that, it would not make sense and we should perhaps address the issue.

Sarah Boyack: I do not have that information at present. Our main position is that the perception in the industry is that aquaculture sites are not easy to come by. If a marine site is to be used for fin-fish production, the operator must obtain planning permission, a SEPA licence and a lease from the Crown Estate. The procedure is not simple or

instantaneous, for good reason. Obtaining planning permission or a SEPA licence could require environmental assessment, which could take several years.

A balance has to be struck and the committee acknowledged in its report the need for some balance. We are keen to retain that. I hope that that answers Richard Lochhead's question.

Rob Gibson: The committee said in its stage 1 report that it considered

"that the long-term retention of sites which are left inactive is unacceptable."

My amendment 24 addresses that point directly. I have evidence of fish farmers such as Marine Harvest applying for new sites. There is a case in point near Brodick on the Isle of Arran; Marine Harvest already has unused sites in other parts of the Highlands. If the minister does not recall that, I remind her of it.

I hear the minister's arguments about the relationship between the Executive and the Competition Commission and I understand that we could do with greater clarity about that, if that were a possibility. On reflection, although I may wish to return to the issue, I am prepared to withdraw the amendment, in the hope that we hear much more in detail from the minister that will reassure me before stage 3.

Amendment 24, by agreement, withdrawn.

Section 7 agreed to.

Sections 8 to 14 agreed to.

Section 15—Construction of barriers to movement of fish, treatment of waters with chemical agents etc

The Convener: Amendment 2, in the name of the deputy minister, is grouped with amendments 3 to 5.

Sarah Boyack: Amendments 2 to 5 are technical amendments to the provision on barriers. Amendments 2 and 3 will replace the term "construction" with "creation". That wider term will allow barriers to be created by closing fish passes as well as by construction from scratch. As a consequence, the separate provision on the closure of fish passes at section 16 will no longer be needed, so amendment 5 will remove it.

Amendment 4 will allow the Scottish ministers to exercise their powers responsibly, by ensuring that they have the power to remove any barriers that they have created when they are no longer needed—to tidy up after themselves, if you like.

I move amendment 2.

Amendment 2 agreed to.

Amendments 3 and 4 moved—[Sarah Boyack]—and agreed to.

Section 15, as amended, agreed to.

Section 16—Further powers by regulations under section 31(1) of the 2003 Act

Amendment 5 moved—[Sarah Boyack]—and agreed to.

The Convener: The procedure is a wee bit complicated, because amendment 5 removed section 16.

Section 17 agreed to.

After section 17

The Convener: Amendment 6, in the name of Ted Brocklebank, is grouped with amendment 6A.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I lodged amendment 6 because, after considering the evidence that we heard at stage 1, I remain of the view that the bill does little to prevent *Gyrodactylus salaris* from entering Scotland. The parasite—and the aggressive measures that would be taken to deal with it—could devastate our rivers. We cannot afford to rely on education as a means of prevention or on containment, should the parasite arrive.

I accept that a cost would be attached to the measures that are outlined in amendment 6, but that cost pales into insignificance when it is compared with the cost to all of us should GS arrive in Scotland. For example, I shudder to think what the cost to the Executive might be of compensating the whisky industry, which could face annihilation if a chemical such as rotenone were flushed into the Spey or other rivers. However, even that cost would be overshadowed by the loss of revenue that is generated by recreational angling. Worst of all would be the cost to our environment, which simply cannot be calculated.

I have sympathy with amendment 6A, in Richard Lochhead's name, but I am not sure that the timescale that it envisages would allow the flexibility that might be required in the introduction of the measures that I propose. I reserve judgment on amendment 6A.

I move amendment 6.

Richard Lochhead: Amendment 6A would amend amendment 6, which I support, to ensure that the Parliament would hear from ministers about the measures that they had adopted to ensure that every effort was being made to prevent GS from getting into Scotland. At previous meetings, ministers assured us that steps would be taken in that regard, but it is essential that the

Parliament is kept informed about what is being done.

It would be ideal if a protocol were agreed between the Scottish and United Kingdom Governments and the relevant agencies and authorities at ports of entry. If there were such a protocol, everyone who has an interest in the issue could refer to it and everyone would know the score about what measures had been taken.

The timescale for the Scottish ministers to report back to the Parliament, which would be 12 months from the coming into force of the relevant section of the bill, is reasonable. Of course, ministers could report again to the Parliament if more measures were put in place.

I move amendment 6A.

Rob Gibson: I have with me a copy of the Norwegian outdoor access code, which was adopted in 1957, because it is important that we consider how the Norwegians view the issue. The code advises anglers to remember

“not to move live fish to another river or lake ... to dry your tackle, boots and waders before going to another lake, so as to avoid spreading live organisms and diseases ... that tackle used in rivers and lakes carrying infectious diseases must be disinfected”

and

“to clean and wash fish in the water they were caught in”.

That approach was adopted in Norway 50 years ago. We are trying to find an approach that will prevent us from having to deal with a problem that is endemic in certain Norwegian rivers. We should go as far as we can do to ensure that people cannot bring infection into the country, so we should firm up existing legislation. Amendment 6A would help us to understand what ministers do about an extremely serious matter.

Nora Radcliffe (Gordon) (LD): Is the Norwegian access code advisory or is it statutorily underpinned?

10:30

Rob Gibson: The access code is included in the printed documents that are provided to everyone who uses Norway's sea, land and sky. The advice in the code is underpinned by law—namely, the outdoor recreations act of 1957—so certain aspects of the advice presumably have a legal or statutory basis.

Nora Radcliffe: Norway seems to deal with the issue just by giving advice to anglers.

Sarah Boyack: Although I acknowledge the sentiment behind amendments 6 and 6A, the Executive's view—which is shared by the Association of Salmon Fishery Boards, the Department for Environment, Food and Rural

Affairs and HM Revenue and Customs—is that mandatory controls at the point of entry would not be workable for two reasons. First, many points of entry from infected areas are not staffed by customs officials. Secondly, where such points are staffed, it would not be practical to check every passenger and, more important, the veracity of any declaration that was given could not be established. The proposal is unworkable.

Also, elements of amendments 6 and 6A are defectively drafted. However, my view is that no amount of redrafting to perfect the amendments would address the policy issue. I would not be prepared to accept the amendments.

In response to the points that Richard Lochhead and Ted Brocklebank made, let me again put on record that we take this issue very seriously. Ted Brocklebank's points about the impact that GS would have if it ever came to Scotland are well made. We should do absolutely everything that we can to keep this parasite out.

Our preferred approach is a properly focused awareness campaign. The Executive has put publicity in place for that and has published posters and leaflets, which the committee has seen. The challenge will be to ensure that the information is distributed as widely as possible. We have already produced posters—which I do not recall seeing before—so we are not talking about a theoretical campaign. The challenge will be to ensure that the literature that has been prepared is distributed to the wide range of stakeholders who should be involved. Some £20,000 has been allocated so far and we are now considering a wider campaign.

Setting up a protocol, as Richard Lochhead suggested, is very much the route that we want to go down. We want an approach that involves VisitScotland, airport authorities, port authorities, ferry operators and all the other organisations and agencies with which we will need to work together. The concept of establishing a protocol is very much where we want to go.

I repeat the message that we believe that it is better to educate people to take good care to clean and disinfect their equipment beforehand so that they do not import contaminated gear into the country.

On the point that Rob Gibson raised about the access code, I am told that no evidence has been reported to the Executive of transmission from gear in Norway, but we will keep an eye on that. I agree that it would do no harm to have a look at our own access code to ensure that it provides good advice to anglers and others who use our rivers. We will take that suggestion on board after today's committee meeting.

Essentially, I think that amendments 6 and 6A are neither workable nor appropriate. We have an alternative approach. I urge Richard Lochhead and Ted Brocklebank to withdraw the amendments for the reasons that I have outlined.

The Convener: Could the committee have copies of the poster? We have copies of the leaflet but not of the poster.

Sarah Boyack: We are happy to provide those.

Mr Brocklebank: The minister agreed that the Executive must do “absolutely everything” to tackle the issue, but it will spend the sum of some £20,000 to help with the education job. I must say that I am not totally convinced by that.

I accept that there would still be a danger of GS entering Scotland via England even if amendment 6 were agreed to. Therefore, I would hope to see a similar approach being taken south of the border. However, that possibility should not be used as an excuse for inaction—or apparent inaction—on the part of the Executive. Indeed, if we took such a robust stance, I believe that we would send a powerful signal to Westminster about just how serious the problem is that we might face. The threat that GS poses is so huge, and its potential impact so devastating, that we must not hold back from taking the most comprehensive action available to us.

Amendment 6 takes forward the recommendation in our stage 1 report that more robust measures should be deployed, so I urge colleagues to support it. I will press amendment 6.

Richard Lochhead: Obviously, I do not doubt the minister's sincerity when she said that ministers take the issue seriously and I welcome the indication that ministers will go down the route of adopting a protocol—that is good news. My point is that it would be good for ministers to report back to the Parliament on the protocol to ensure that the Parliament is kept abreast of what it contains and the timescale therein. That is a simple step, but it would ensure that the Parliament was kept informed and that pressure was maintained on ministers to progress the adoption of a protocol. I will press amendment 6A.

The Convener: The question is, that amendment 6A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Lochhead, Richard (Moray) (SNP)

AGAINST

Godman, Trish (West Renfrewshire) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)

Morrison, Mr Alasdair (Western Isles) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 6A disagreed to.

The Convener: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Scott, Eleanor (Highlands and Islands) (Green)

AGAINST

Godman, Trish (West Renfrewshire) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Radcliffe, Nora (Gordon) (LD)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 6 disagreed to.

Section 18 agreed to.

Section 19—*Gyrodactylus salaris*: Scottish Ministers' power to make payments

The Convener: Amendment 7, in the name of the deputy minister, is grouped with amendment 8.

Sarah Boyack: Amendment 7 is a purely technical amendment that is designed to make the wording of section 19 match its purpose. Amendment 8 seeks to bring the scope of section 19 into line with current Scottish Executive policy, which is that payments should not be made that relate to losses arising from the implementation of movement controls. That was recognised by the Finance Committee in its report on the bill to the Environment and Rural Development Committee. The Finance Committee sought confirmation from the Executive that GS-related payments would be made only for direct losses. The example was given of a riparian owner whose business involved fish such as trout, which would not be killed by GS but which would be killed by the treatment for it. It is clear that losses arising from movement controls would be consequential rather than direct losses.

I move amendment 7.

The Convener: Do any other members wish to speak to the amendments in this group?

Members: No.

The Convener: Minister, do you have anything to add by way of winding-up remarks?

Sarah Boyack: No, thanks.

Amendment 7 agreed to.

Amendment 8 moved—[Sarah Boyack]—and agreed to.

Section 19, as amended, agreed to.

The Convener: As the rest of the marshalled list is beyond the point at which the committee agreed to stop, that completes stage 2 consideration of the Aquaculture and Fisheries (Scotland) Bill for today. The target that I have set for next week is to reach the end of the bill, which means that amendments to sections 20 to 38, and the schedule, should be lodged by 12 noon on Friday 26 January. I thank the deputy minister and her officials for their attendance.

We will have a short suspension for a comfort break and to allow the deputy minister to leave.

10:39

Meeting suspended.

10:42

On resuming—

Subordinate Legislation

Prohibition of Fishing with Multiple Trawls (No 2) (Scotland) Amendment Order 2006 (SSI 2006/602)

The Convener: The Subordinate Legislation Committee has made comments on both the Scottish statutory instruments that we are considering today, which have been included in members' papers. Do members have any comments on the Prohibition of Fishing with Multiple Trawls (No 2) (Scotland) Amendment Order 2006?

Mr Brocklebank: It seems that we are being asked to pass a negative instrument before there has been time for full consideration of the implications. As you know, the purpose of the amendment order is to prohibit all trawls of more than two nets in Scottish waters. However, I find myself wondering why the order has been laid, given that, although it will ban the use of four nets by Scottish fishermen, it will have no effect on fishermen of other European Union nations, which will mean that the Dutch and the Danes will continue to use four nets. It is discriminatory against Scottish fishermen and defies the EU's claims to be a level playing field. Further, according to much of the evidence that has been brought before me, far from acting as a conservation measure, dropping down to a two-net rig might have an adverse effect on conservation.

This order became law on January 22. Given that, as I understand the situation, three vessels have been given exemption by the Executive to continue using their multiple-trawl gear in order to collect scientific evidence to show that this is an effective conservation measure, why are we not waiting until we have the outcome of the trial that involves those three vessels? Why are we being asked to pass this negative instrument now? The minister should come back with answers to those questions before we vote.

10:45

The Convener: Are there any other comments?

Mr Morrison: Although it is not my job to respond to Ted Brocklebank, I refer him to the first line of paragraph 3 of the regulatory impact assessment, which says:

"This would remove the possibility of increased use of multiple trawls by Scottish vessels and other UK vessels fishing in Scottish waters, and by any vessel within the Scottish 12-mile limit".

That is a matter for ministers to address and respond to.

I want to make another point about the order. I seek further information from ministers on details of the impact of the registration scheme that was introduced on 1 January 2006. That scheme dictates that a seller or buyer of prawn now has to be registered. We are hearing anecdotal evidence that the price of prawn has increased by 30 per cent, and that the reason for that—again, it is anecdotal—is that everything landed by a registered seller or buyer is accounted for. That is taking care of black landings, the illegal landings that have blighted fishing not only on the west coast but particularly on the east coast of Scotland, where even the political classes seemed to accept that black fish landings should be allowed to continue unabated. If it is appropriate, I would like to ask the relevant minister, through the convener, for an update on the impact of the system of registration and whether it has been positive or negative, although all the evidence points in the direction of a positive impact.

Rob Gibson: We hear that there are between three and five vessels. Can we have some indication of where they are fishing at the moment? I would be interested to know that because it would give me some idea of the import of the situation and what particular stocks they are after.

The Convener: We can certainly write to the minister and raise the various questions that have been asked by the committee today.

Richard Lochhead: I have a small point to add to the letter. I understand that other EU states are going to adopt similar measures and I would be interested to know their timescales. The UK often enthusiastically enforces these measures while other EU member states are years behind. It is imperative that all states move at the same pace.

The Convener: We can defer consideration of the order until next week. Would it be appropriate to write to the minister with our various queries, see what answers we get and then reconsider the order at next week's meeting?

Nora Radcliffe: How many multiple-trawl boats are there? There seems to be a very small number; there may be only three and they may have been given a derogation to undertake research.

The Convener: Sure. We do not know the exact number; it is between two and five.

Nora Radcliffe: We do not know what the small number is. If there are only three vessels and they have been given a derogation to do research, that would alter the argument.

Mr Morrison: I am perfectly happy to pass the order today, on the clear understanding that ministers will respond to legitimate questions, as they always do.

The Convener: We have a week, so we can defer the order, consider it and pass it next week. It will give people comfort if we get a response from the minister before we consider the SSI.

Welfare of Animals (Transport) (Scotland) Regulations 2006 (SSI 2006/606)

The Convener: Does anyone have any comments on the regulations, or are we content?

Nora Radcliffe: We welcome the derogations that have been won and will watch with interest what happens with the angles of ramps, because it has not been demonstrated that that is necessarily an effective animal welfare measure, although it is going to be imposed in time.

The Convener: Yes. I think that a certain amount of leeway has been given.

Nora Radcliffe: The Executive may decide to give further consideration to the matter. Perhaps it will press for a derogation on that issue, too. The Executive has done well. I welcome the derogations that it has won.

The Convener: If there are no other questions or comments, are members content with the regulations and happy to make no recommendation to the Parliament?

Members indicated agreement.

The Convener: We will have a short suspension to allow witnesses to come to the table for item 4.

10:50

Meeting suspended.

10:51

On resuming—

Marine Environment Inquiry

The Convener: Agenda item 4 is our third and final evidence-taking session in the committee's marine environment inquiry. I have a declaration of interest to make: I am a member of the Moray Firth Partnership strategy group.

We have two panels of witnesses today. First, we will explore issues that have been raised through the Scottish sustainable marine environment initiatives in Berwickshire, Shetland and the Clyde, and take an overview of marine environment issues with the Scottish coastal forum. Secondly, we will hear from the Minister for Environment and Rural Development.

I welcome our first panel. First, I welcome Gordon Mann, who has agreed to stand in for Captain Jim Simpson, who is the chair of the Scottish coastal forum. Thank you for appearing before us at such short notice. I also welcome Dr Christopher Cutts, who is the project officer for the SSMEI Berwickshire project; Dr Lorraine Gray, who is the project officer for the SSMEI Shetland project; and Isabel Glasgow, who is the chair of the steering group for the SSMEI Clyde pilot project. Thank you for your helpful submissions, which have been circulated to members.

Nora Radcliffe: We have heard conflicting evidence on marine spatial planning. On the one hand, we have heard about limited competition between uses outside the main firths and that the main impacts on the marine environment occur in the coastal zone, and on the other hand we have heard that a system is urgently needed to protect Scotland's marine environment. What are your views on that continuum of conflicting views?

Gordon Mann (Scottish Coastal Forum): The debate on the relationship between marine spatial planning and integrated coastal zone management has been raging for some time, although I am not sure that it has always cast light on the issues. We take the view that there is now a well-proven track record for the use of integrated coastal zone management—certainly that is the case for our coastal areas. There are now some very good examples of how that can be implemented. That said, the system is not perfect; there are ways in which it can be improved in the future.

In areas of our coastal waters, competition for uses and sensitivities mean that a spatial dimension needs to be considered in all the management and planning of activities, which is where marine spatial planning comes to the fore. Certainly in coastal waters, we see marine spatial planning as a mechanism or tool for delivering

integrated coastal zone management. Further out—particularly beyond the 12-mile limit, which is beyond our current remit—the reverse will be the case; it is more to do with marine spatial planning than with integrated coastal zone management. The answer to the question whether we should have one or the other is that we need both. We need to tailor them to the circumstances in particular areas, which is why we need strong local input as much as to consider national and international issues.

Dr Christopher Cutts (Scottish Sustainable Marine Environment Initiative): Nora Radcliffe is right to suggest that there are often conflicting opinions on resource use on different parts of the coast, but part of the joy of the Scottish coastline is the sheer diversity of uses and activities that exist along it. For example, in Berwickshire, which is my patch, and most of the east coast there is practically zero aquaculture. That contrasts strongly with the west coast, where aquaculture is dominant in most sea lochs. However, the east coast has its own suite of problems with regard to the fishing sector, in that there is often conflict between static and mobile fishing gear. On the west coast, static gear predominates in many places.

I agree with Gordon Mann's point; in the management of the coastline we need a flexible local community-oriented planning system, because there is such a big continuum of activities around the coastline.

Isabel Glasgow (Scottish Sustainable Marine Environment Initiative): I, too, reiterate what Gordon Mann said. On the point about varying complexity, everyone accepts that the new venture of marine spatial planning should be at the level of grain and detail, according to the needs of the area. For example, on the Clyde there are huge conflicts of interest among many stakeholders. I do not mean that they are all in conflict, but they compete for space and for knowledge of what others are doing. It is one of the most complex areas involving tourism, fishing, pipelines, potential wind farms and so on. Without the proposed plan, which will show where everyone wishes to have their space, chaos could ensue. However, in other areas of Scotland, marine spatial planning will be much less complex. As a tool, it complements the need for integrated coastal zone management. That is why I agree with Gordon Mann.

The geographical areas that are affected vary, in that marine spatial planning goes much further out into the marine environment. It is a maritime instrument, whereas integrated coastal zone management is what one would expect—it is about the coast and the coastal communities. Both systems emphasise the need for extensive local

consultation, albeit that they relate to different geographical areas. The two systems are not in conflict. In order to get things right, we need both.

Dr Lorraine Gray (Scottish Sustainable Marine Environment Initiative): I echo the points that have been made. There is a lot of competition for space and resources—that can be seen in the aquaculture and fishing industries in Shetland, where the Zetland County Council Act 1974 applies. The fishermen are given opportunities to have their say about protecting their grounds, but decisions that are made following negotiations between the fishermen and people in the aquaculture industry are not always adhered to. The spatial planning process could assist with that.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): We are talking about the level of marine spatial planning. In her submission, Isabel Glasgow said that there is a need for an EU-level marine spatial plan as well as UK, national and local ones. What would go into a national or UK plan that would not necessarily go into a local plan?

11:00

Isabel Glasgow: I will turn that on its head: marine spatial planning is based on the ecosystem approach, which is based on all human activities and is therefore, by definition, an integrated approach from the start. Although the ecosystem approach does not acknowledge boundaries, we can take small and large ecosystem approaches. Some habitats are smaller, for example the maerl beds in the Clyde area or salt marshes.

In order to get a larger view of planning, we must bed it into a wider approach. Species in the sea move across great areas. In my submission, I meant that the mesh at local level would differ according to which area of Scotland it is in. We must take on board the wider approach—it will come up later when you speak to the advisory group on marine and coastal strategy. Which areas will be considered regional seas and what regulation will occur at which levels? To have a local spatial plan would be to get ahead of ourselves because such a plan should be embedded in a wider approach.

Mr Ruskell: May I offer an example?

The Convener: Mark, I did not mean to give you leeway to ask lots of questions; you were to ask a supplementary to Nora Radcliffe's question. I will come back to you later. Does Peter Peacock have a supplementary to Nora Radcliffe's question?

Peter Peacock: I am not sure where Nora Radcliffe was going next, but I want to talk about the role of local authorities.

Nora Radcliffe: That is part of the same area.

Peter Peacock: From my reading of the evidence so far, I have noticed a conflict of views between those who suggest that the leadership of integrated coastal zone management should come from the local authority and those who say that that should not be the case and some other group should take the lead. Who should lead the local process of bringing together different agencies and partners to think about such issues, particularly around the coastline? Should it be local authorities? Do they have a particular role? I am looking at that in parallel with land-use planning—is there read-across from that or should some other form of leadership be applied locally?

Gordon Mann: It is clear from all the experience to date that local authorities must play a significant and important role in the process. The issue is about the relationship between the land and the sea. If what we do does not integrate with land-use planning policies, we will not succeed. However, there is a difficulty in suggesting that the lead authority should in every case be the local authority. In some areas—the estuaries, for example—seven or eight local authority areas can be involved, so one of the tasks is to bring them together. I chair the Solway Firth Partnership. In order to have a representative of all the agencies involved, we would need to have 23 people around the table simply to ensure that every interest was reflected.

If we consider some parts of the Highlands, the role that Highland Council plays might be slightly different. When we suggested how areas might be divided up, we acknowledged that partnerships differ to suit local circumstances. Although local authorities have a key role, it might not necessarily be the same role in every situation.

Peter Peacock: Even in the circumstances that you described around the Solway firth, where there is a more complex mix, is it the role of local authorities, either individually or collectively, to be given or to take the lead in helping to co-ordinate all the different actions?

Gordon Mann: Our view is that each partnership must be based on local circumstances. It would therefore be wrong to say, "It's the local authority's job to do this." It is important that each partnership develops its relationships suitably and that each party plays its own role. We would not want to say that a local grouping should be made up of A, B and C, with particular groups contributing particular things. It is much better for issues to be resolved locally, especially where local authorities have a particular skill to bring. Some local authorities have developed extensive skills in marine issues—Shetland Council is an obvious example—but other local authorities do not have those skills. The

issue of controlling aquaculture may present some difficulties for local authorities because of the lack of skills.

Isabel Glasgow: Let me just reiterate that point: it is a question of area. There are so many local authorities involved in the Clyde that it would be difficult to say that one or two should lead. To name but a few, those involved in the Firth of Clyde forum include Glasgow City Council, the Glasgow and Clyde valley structure plan joint committee, the Ayrshire joint structure plan and transportation committee, West Dunbartonshire Council, and Argyll and Bute Council. Our area covers such a large number of authorities that the logic is that any group should not be chaired by one of those authorities. It could be, but I do not think that the natural answer would be that it should be.

The members of the Firth of Clyde forum seem to be perfectly content with the situation. Obviously, a wide range of other agencies are on it—including creelers, the Clyde Fishermen's Association, the Scottish coastal forum and Scottish Natural Heritage—and it has a wider remit than the national and local representative bodies that steer the committees. The situation will be different in different parts of the country—I agree that one size does not fit all.

Dr Gray: I reiterate the point that one size does not fit all. In Shetland, the marine planning process works well, although I am not too sure how other sectors would feel about that function lying with the local authority. That would be an issue to discuss.

Dr Cutts: I back up what Isabel Glasgow, Gordon Mann and Lorraine Gray have said. With regard to who organises what in local coastal partnerships, a lot has to do with coincidence of scale. Under the ecosystem-based holistic approach, marine spatial planning should be based on a sensible geographic scale and ecosystem. We might think of the Firth of Clyde as an ecosystem in terms of common impacts and uses; it straddles several authorities. On the east coast, somewhere such as Berwickshire would be on a sensible scale, as there is one ecosystem of maritime cliffs, sedge, underwater caves and reefs, so it is perhaps sensible that that should be organised by the particular local authority.

The answer to the question whether a local authority should always take the lead will vary from site to site. Some local authorities, such as those in the Highlands and Islands, will have far more marine and coastal expertise than other more terrestrial-oriented authorities. One size does not fit all, and the system will have to vary from place to place.

The Convener: I will bring in Eleanor Scott on those points.

Eleanor Scott (Highlands and Islands) (Green): I want to explore the idea of local coastal partnerships. The Scottish coastal forum's submission mentioned the idea of 11 coastal units delivering for the whole of Scotland. What powers would you envisage the local coastal partnerships, or whoever managed the units, having? Would there be any conflict? They may or may not be led by local authorities, and if they were not, there may be two different planning bodies with authority in marine issues. Do you envisage any democratic input to the units so that they could reflect local views? You seemed to propose giving them a lot of authority, but it is not clear how you envisage their operating.

Dr Cutts: Democratic input is crucial, because any planning in coastal and marine matters must have the community at its core. Coastal communities benefit most from a high-quality marine environment economically and from tourism and the like.

Gordon Mann: One weakness of the coastal partnerships is that they are voluntary and non-statutory. In a sense, however, that is also a strength because they will work only if they can get all agencies and members of the public to buy into what is proposed. Inevitably, that means that there must be a long process of consultation. Every coastal forum has an annual general meeting and a membership, and there is constant dialogue between the various interest groups and within each coastal forum.

The next questions to ask are whether that is the best way to proceed, and what we need to do to make it better. Various submissions have hinted that the process could be made much more effective. We need to ensure that there is proper governance in each area and that that governance is properly controlled. The Scottish coastal forum's role is to bring everything together and ensure that we get the appropriate standards on quality and value for money from each partnership. It is not simply a matter of having 11 coastal partnerships—there must be a mechanism at the centre that ensures that quality, standards and governance issues are taken into account, which is precisely the point that Eleanor Scott made.

The Convener: Eleanor Scott may respond briefly—Rob Gibson has been waiting patiently to ask a question.

Eleanor Scott: What decisions do you expect the partnerships to be able to make? How do you expect them to enforce them?

Gordon Mann: At the moment, the partnerships operate on a voluntary basis, so they make recommendations to organisations that have

power. As we move towards marine spatial planning, we must consider the statutory basis on which it is placed and whether it is appropriate for coastal partnerships to have statutory powers. The issue must be debated and explored further.

Isabel Glasgow: With the current voluntary approach there is a vital role for brokering—drawing together stakeholders that have signed up to management plans and pointing out departures from those plans. That is a long process, but it means perhaps that there is more buy-in than if we took a statutory approach. The pilot projects on the Clyde—I am not sure about the others—will look into whether a marine spatial plan can be achieved as a voluntary management plan or whether in the marine environment such plans need to be put on a statutory basis. We will not know the outcome of that investigation until we are further ahead with the plan and have put it into effect.

Rob Gibson: That leads to the wider question of what we are trying to achieve by having a marine strategy. I am interested in seeing such a strategy applied at the most local level. You talked about the need for conflict resolution, settling of disputes and direction from national strategies. During the first evidence-taking session in the inquiry, I asked about the arrangement in Northumberland and south-east Scotland, where SNH and English Nature are trying to rectify some damage that has been done. How can we extend biodiversity? The advisory group on marine and coastal strategy tells us that by 2010 we will broadly have achieved the Gothenburg biodiversity principles. If the form of organisation that you represent is to be successful, it must extend biodiversity and healthy, biologically diverse marine environments. How will you go about doing that?

11:15

Dr Cutts: A sustainable fishery is needed in south-east Scotland. I think that we have such a fishery there, involving the creeling of nephrops and lobsters, and the trawling of nephrops within sustainable limits that are set by EU quotas in order to remove overfishing. If we are to extend biodiversity, we must also acknowledge terrestrial influences.

Certainly, down in the south-east of Scotland, we are seeing that agricultural run-off into rivers may have an impact on biodiversity immediately offshore. However, those things can be remedied easily. For example, agricultural run-off from terrestrial systems can be remedied by preventing cattle from accessing water courses and thereby spreading pollution and water-borne pollutants. It is not rocket science: all that is required is partnership working and funding.

As eco-tourism takes off, an increasing amount of legislation—following on from initial voluntary codes of conduct—will be required. We will need to set out the ways in which the tourism sector should conduct itself in the marine environment. Such measures are already in place with the voluntary marine reserve around Eyemouth and St Abb's and with the implementation of SNH's new marine wildlife watching code. Impacts such as tourism and fishing will now have to be managed in line with those guidelines.

If the decision is taken that it is appropriate to extend biodiversity, the baseline biodiversity will need to be established by means of research. Relevant organisations in that context include the Fisheries Research Services and perhaps others such as the Scottish Association for Marine Science and SNH. In some places, it may not be appropriate simply to say, "We are going to extend biodiversity." Some places will already be as biodiverse as they are ever going to be. One cannot just—

Rob Gibson: Okay. Fair enough. In your case, that is what you feel. Once again, you mentioned the voluntary principle. Stable fisheries rely on the crews of local vessels giving information on people going through the area, but there is nothing underpinning that to ensure that it happens. As I said earlier, 20 years ago, we had cod, haddock and prawns in the Minch; now, we only have prawns. Is the situation in each SSMEI such that we could extend the biodiversity in order to have that range of fish once again? If so, what mechanisms will be required?

Isabel Glasgow: I will try to answer that, but the issues involved are complex. Obviously, biodiversity is not entirely about fishing industry concerns. The vast biodiversity that is out there in the marine environment may be impacted on by fishing, but other issues over and above that are involved. Marine spatial planning is concerned with the development of spatial plans that are based on studies of the cumulative impact of sectoral activities. Until now, it has been difficult to do that. Marine spatial plans will show the cumulative impact of different sectors on biodiversity, which is one step forward in terms of even seeing whether biodiversity is being affected by those cumulative impacts. That is one good thing about developing a marine spatial plan.

Another good thing is that the data on which we need to base our decisions will be collated in one spot. I am afraid that gaps will be seen in the data—further research will be required to carry that through—but a great amount of data will be made available, such as those which the various pilot projects are collating at this very moment. The data will show the state of play in terms of biodiversity and where we need to take action.

That is a very general response, but it is part of what we hope to achieve with marine spatial planning, which is the study of cumulative impacts—what we are doing and what we are not doing to the seas. In the Clyde, we will conduct a strategic environmental assessment, which will show the impact of the various sectors on biodiversity and conservation. That is another step forward that I hope will be made.

I turn to the proposal for the inshore fisheries groups that are yet to be formed. I think that one of the intentions is to work closely with all those groups—we are hoping to take part in that—to discuss impacts and to work out management plans that fit in well with the overall picture. That is a general response, but it is a way of trying to structurally assess, in a more coherent way, what impact we are having on marine life. The issue is wider than fisheries.

Rob Gibson: I am well aware of that, but it so happens that, in terms of biodiversity, we have to find practical expressions of some of the factors that we are talking about in all of the various sectors concerned. Obviously, in Shetland, the regulating order has made it possible to measure the stocks of scallops and so on. That statutory element has been helpful in establishing baselines.

Dr Gray: That is a good point. I add that the marine spatial plan is a snapshot of the current picture of biodiversity. Marine spatial planning is a process, and data on stocks will continually have to be updated.

Through interviewing fishermen, I am mapping historical grounds, which might enable us to determine further patterns.

Rob Gibson: Having updated that data—

The Convener: Rob, before you ask your question, Nora Radcliffe wants to ask a point of clarification.

Nora Radcliffe: I notice that Shetland is doing a lot of digital mapping. Are you learning lessons about the practicalities of doing that that you could share with other people? Mapping is not as simple as it sounds, as there are questions to do with what you put in, what you leave out and how you overlay things. Could you talk about the practicalities and also say something about where you get expert information? Have you received expert guidance from Ordnance Survey or similar organisations?

Dr Gray: The process is complicated. It has taken me a year to finalise 50 base maps. I began by getting a picture of the data that were available on resources, restrictions and activities. There are issues with copyright and with the confidence level of the data, which means that I must keep an audit

trail of where the data come from and which data abide by international standards. There are also complications due to the format of the data. For example, they might be in the form of an Excel spreadsheet or they might be gathered from the anecdotal evidence of fishermen or recreational users.

We are due to start working with the marine data and information partnership, which is setting standards.

Nora Radcliffe: There are two streams that we should be examining with regard to research. Not only the collecting but the handling of information is important, because unless it is useful, what is the point of having it?

Rob Gibson: There is a need to gather information, but there is also a need for decisions to be made. Does the panel think that a marine management organisation should replace the role of some regulators and provide another layer? Is it necessary for us to draw everything together into a marine management organisation so that decisions can be made that suit each part of the country?

Gordon Mann: It is a brave man who steps into this area. In the discussions that the Scottish coastal forum has had, there has been a reluctance to have yet another organisation and more bureaucracy. However, it is accepted that there are many processes, management issues and development issues in relation to which some kind of statutory basis is required. That does not necessarily mean that you need to set up a marine management organisation to overlay other organisations. The marine area is complex and a long list of organisations are involved in it. A move towards simplification might be more appropriate than adding another layer.

The important point is that the debate should be driven by the mechanisms that we need to protect and enhance biodiversity, to ensure offshore renewables and to make the best use of the amazing resource that we have, and to do so thoughtfully and properly. We all accept that, at some stage, a statutory basis is inevitable.

Mr Ruskell: That follows on nicely from where I was going earlier. The issue is how the local marine spatial plans—which are being developed on an ecosystem basis, as you said, and involve local partnerships—feed into a national or UK plan for which strategic decisions will have to be taken. That could happen through a marine management organisation or some other structure.

How is the balance achieved between the top-down and bottom-up approaches? How could the partnerships feed into the wider strategic process? I use the example of ship-to-ship oil transfers. In areas of the UK, such as Orkney, ship-to-ship

transfers are taking place and agreement has been reached on how it is done. However, in other areas, such as the Firth of Forth, Falmouth and Lyme bay, there is great concern about such transfers. Who decides on the best place for such operations? You may have other examples of strategic decisions that need to be taken.

Gordon Mann: We have argued strongly for the bottom-up approach and for strong community buy-in. However, we fully accept that if we have 11 regional policy statements in the marine spatial plan, they cannot be stapled together and called a national plan. Everyone must operate in the clear context of EU and worldwide obligations that have been entered into and the national objectives—what the Government sets out for offshore renewables or aquaculture, for example. Local plans must be worked out in that context.

A process is needed whereby local plans feed into the national plan and the national plan feeds back to allow fine tuning, to ensure that we end up with a national strategy that does not sit badly locally and that can be made to work locally. That is why we believe that the Scottish coastal forum can play a role, because the breadth of organisations that it brings together is unique. It can help by acting as a filter, to ensure that national objectives and national and international contexts are set for local plans, and that local plans reflect them and local wishes and aspirations.

The Convener: How will flexibility be ensured in the future? If we had established marine spatial planning five years ago, marine renewables would have come along afterwards. What scope will exist to fit new initiatives into a marine spatial plan?

Gordon Mann: I agree entirely with the comment that was made earlier: we are talking about processes. We cannot have a plan then put it on a shelf.

The Convener: It must be dynamic.

Gordon Mann: The plan must be dynamic, constantly kept under review and changed if that is the right thing to do.

Mr Ruskell: I ask for more views on how we ensure that local decisions are reflected in national or UK marine spatial plans.

Isabel Glasgow: There is much to-ing and fro-ing about whether a marine management organisation will be created in Scotland. We are tasked with producing a marine spatial plan for the Clyde. We will test whether we can do that in a voluntary way or whether we must make the plan statutory. However, that does not resolve how a local plan is matched with a national policy.

Gordon Mann talked about the Scottish coastal forum, but the marine aspect is an element. I know

that there is huge support for a Scotland-wide MMO, which statutorily would feed into and collaborate with a UK-wide MMO.

I cannot answer your question by reference to my representation on the pilot, because that is very specific. However, it is pointless for local plans not to tie into a national plan. In a way, we are addressing the issue locally before we get it sorted nationally. I cannot particularly answer your question, although of course I am aware of the debate.

11:30

Mr Brocklebank: My question follows up points that Rob Gibson and Mark Ruskell made, and it might already have been answered. Could an MMO replace existing regulators? Are we talking about simplification or just an additional layer of regulation?

Gordon Mann: The simple answer is that if we make the situation more complex and bureaucratic, we will have failed. We must think carefully about powers and where they should be exercised. We must consider whether powers should be given to an existing organisation and how far we could go by using voluntary principles. Perhaps there could be a halfway-house approach, in which a voluntary plan is prepared but there is a legal obligation on all agencies to observe it, just as there is an obligation on local authorities to observe development plans. Such an approach might evolve. It is important to acknowledge that our understanding of the processes and mechanisms is growing constantly, so we might take a different view as we gain experience and expertise.

Dr Cutts: The point is coming across that it is early days and the concept of process, as opposed to a rigid plan, should be uppermost. Perhaps the timing is unfortunate, but local coastal partnerships, the SSMEI and the Scottish coastal forum are doing research and are piloting how marine spatial planning might work. The outcome might be a semi-voluntary approach or a legal obligation to adhere to voluntary codes of conduct, as Gordon Mann suggested, which would be neither a huge new layer of bureaucracy nor a completely bottom-up voluntary process, but would probably fall somewhere in the middle. Perhaps existing organisations or their departments will be tweaked to become an MMO, without creating a brand new MMO. A brand new MMO would be a mistake. Many coastal communities feel disenfranchised enough without a whole new layer of bureaucracy being aimed at them.

Isabel Glasgow: As the process of marine spatial planning progresses and plans become

operational—let us say that they will be voluntary, rather than statutory—the plans will act rather like terrestrial local plans, in that people and sectors will know what is expected of them, because the plans will have been developed with a lot of stakeholder involvement. If there is a national organisation, it will be easier to regulate on the basis of a simpler system than on the basis of a system in which all stakeholders hold on to their power, because spatial arrangements will already have been agreed locally—albeit that there will have been conflicts of interest, which I hope will have been ironed out locally. This is pie in the sky at this stage, but I hope that spatial plans will help to create a simplified system at national level. I am being optimistic.

Dr Gray: I do not have anything to add to that. Isabel Glasgow has set out the position well.

Eleanor Scott: In its submission, the Scottish coastal forum says:

“we would like to see integrated government in pursuit of integrated coastal management.”

What is currently lacking in relation to integration at Government level?

Gordon Mann: Are you asking specifically about integration at Government level?

Eleanor Scott: You say that you want “integrated government”, so I assume that you think that that does not currently exist.

Gordon Mann: We have seen marine issues reach the top of the agenda, which many of us worked for and hoped would happen for a long time. However, that has resulted in an extraordinary range of initiatives, consultations, working groups and regulations coming out at an almost bewildering rate. There is evidence that departments and organisations are working in isolation. For example, some of the consultation documents that have been produced have not taken account of the other initiatives that are going on. On the one hand, we are delighted that public agencies’ interest in the marine and coastal area has increased dramatically, but we need to stop and think, to consult and to get together a little more.

Peter Peacock: My question is for Gordon Mann, but others might want to comment. Will you give a Scottish overview of the impact of global warming on sea levels? There are different scenarios. The absolute rise in sea levels in the short to medium term might be quite small, but tidal surges and intense storms are becoming more apparent. The implications for the coastal environment include the loss of habitats such as salt marshes; changes to beaches, dune systems and the lower reaches of rivers; the loss of machair; the loss of breeding sites; and potential

impacts on tourism, recreation and leisure in coastal areas.

How prepared is Scotland for such changes? Do we have good data? Are scenarios being developed? Do we have any idea of the potential loss, shift or, indeed, gain of habitats that might result from the changes? To return to the points that were made about governance, who is taking a lead? Is a sufficient lead being taken? Who should take the lead?

Gordon Mann: When I was in Benbecula for the launch of the outer Hebrides coastal partnership, I was given an opportunity to have a look around the area. It brought home to me in a dramatic way the effect of increased storminess allied with rising sea levels and the potential for substantial losses of machair and some of the only good agricultural land in the area. There is real concern in the outer Hebrides about what is happening and the speed at which it is happening. That issue will dominate the coastal partnership's thinking. In other areas it is less of an issue, and therefore takes up less of people's time.

Do we have good data? The answer is no. We can always look for and collect better data. AGMACS has considered the ways in which data are collected, stored and made available, which is probably the most important issue. The techniques have certainly improved, but more needs to be done.

It is difficult to say who is leading and who is driving. From our perspective, it is difficult to say who is giving a clear lead. We must consider that, particularly as the science begins to clarify the medium to long-term impacts in each area. However, it is clear that there will be different impacts in different areas. The DEFRA approach of managed retreat might make sense in some parts of the south and east coast of England, but it does not make sense in an island community. It is important that we start to develop policies that are tailored to local circumstances.

Peter Peacock: Can I press you on that? I accept your broad scenario of what is happening. There will be different impacts in different areas—the impact on the Uists in the Western Isles will be different from the impacts on the Clyde, the Solway and the east coast or Berwickshire—but something will happen everywhere. Does that imply that responsibility ought to lie locally rather than nationally, or should it be a combination of both? Where ought the lead to come from and how would you see it operating?

Gordon Mann: I say off the cuff that it is terribly important that we have a lead based on national and international thinking. It is necessary first to ask how we will be affected overall. We must then take that information and work out its implications

in each local area. Are losses of salt marshes acceptable? What would be the implications for biodiversity if we allowed that to happen? We must have a clear lead, robust analysis and good science and information on the national scene before we can start to think about the local implications. That in turn needs to feed back to influence Government policy.

Isabel Glasgow: I agree. In addition, looking at the matter the other way round, marine spatial plans will add to the ever-growing knowledge of local areas. For some years, I have attended the joint flooding committees of local authorities to get information on increasing storm surges, the ability to withstand flooding, erosion and so on, and that information has become increasingly integrated into general knowledge in local coastal forums. Obviously, not all the people in the forums are concerned about the issue, but for many years in our area—as I am sure has been the case in others—we have been discussing it.

At least when we get a national policy there will be better data to feed into it than there would have been without that integrated approach. Although we cannot deal with the issue at a local level because it is of such major importance, we can say that in a particular area we should concentrate on a certain issue and integrate with another area. For example, the Ayrshire coast is prone to flooding, but locally people cannot cope with it entirely on their own. I do not think that anyone is suggesting that they ought to do so, but the approach that I have outlined produces local participation and awareness of what is going on. We will have a seminar in the area in a few weeks' time on climate change, which I hope will make local people more aware of what is going on. It is not a decision-making seminar, it is about awareness raising, which is important.

Richard Lochhead: Westminster is currently considering marine legislation and our own Parliament and Government in Scotland and the European Union are beginning to examine marine legislation and the marine environment. Many people think that the legislation is complex and that everything must be streamlined, because governance of our marine environment is complex. In the light of that, many people think that the Scottish Parliament should have more powers over our marine environment to help to streamline governance and consolidate everything. What are your views on that?

Dr Cutts: It is fair to say that Scotland has 60 to 70 per cent of the UK fishing fleet, so Scotland should try to grab as much power over fisheries management as it can. I imagine that any responsibility and power should be meted out proportionally in accordance with the coastline. I do not know the figure for the length of Scotland's

coastline compared with England's but, depending on the scale on which you measure it, Scotland's coastline is probably greater, given the islands and its greater complexity. We have a vested interest in trying to lead the way. We are perhaps doing so within Europe in respect of marine management and marine planning, because the coastline is so important to Scotland, but of course that approach should properly be embedded within an overall UK strategy.

11:45

Gordon Mann: I chair the Solway Firth Partnership. The nightmare scenario for us is that we have one set of legislation for one half of the firth and a different set for the other half. There are already problems with cockle fishing, which is a well-publicised industry in the Solway firth. The regulations and control mechanisms for cockle fishing on the English side of the border are different from those on the Scottish side. Also, the introduction of controls on tope fishing in English waters is driving commercial tope fishers to compete with recreational sea angling, which is important to the tourism industry. There are knock-on effects across the board.

We make a plea for consistency, whether that is achieved by Holyrood and Westminster working together or by their working separately. The extent to which they work together is a matter that we leave to the politicians, but we need consistency.

The Convener: Does anybody else want to offer a view?

Isabel Glasgow: We will leave it to the politicians.

Seriously, I presume that we are talking mainly about devolved or non-devolved responsibility for waters from the 12-mile limit to the 200-mile—

Richard Lochhead: If you leave it to the politicians, of course, you might get the wrong answers.

Isabel Glasgow: Is that really your view?

Richard Lochhead: When Ross Finnie, the Minister for Environment and Rural Development, was interviewed in *The Scotsman* a couple of weeks ago, he said that, given the on-going negotiations on the marine environment and the legislation that is coming in both in Scotland and at Westminster, there is a case for more powers to come to Scotland. Is that a good idea?

The Convener: You do not have to answer that type of question.

Isabel Glasgow: In principle, yes.

Nora Radcliffe: Can we approach the argument about complexity from a different angle and get

the benefit of your experience? You all do things in the marine environment. We are told that the framework that covers the marine environment is enormously complex and that, if someone wants to do something in the sea, they must have regard to about 85 different acts. How difficult is it to operate in that environment and deal with all the regulatory mechanisms? Is it as complex as it looks from the outside? Can you cope with it? What scope is there for streamlining or simplification? As somebody remarked in the first session of our inquiry, some issues are complex.

Isabel Glasgow: There are degrees of complexity in all areas. First, we need to get information about where people want to be, although the complexity is not always caused by everyone being in one spot at the same time, because some areas can have multiple uses.

The matter is only complex where there is a lack of knowledge. For example, at a conference that we held, someone said that something had been put in the way of their navigation channel. That is an extreme example, but it was due to a lack of knowledge. Lack of knowledge makes situations complex when they could be simple. The matter will always be complex, but it helps if people know what other people are doing and they can agree about it. The aim of the plan is to say, "You're all doing your own thing. Let's get together and see whether we can do things without impinging too much on each other." It is a complex environment, but simplification will start with the plan—as long as people agree to it, of course.

The Convener: I am conscious of the time and of the fact that the minister is waiting. As there are no further questions, I thank panel members for their written submissions and oral evidence, which have been extremely interesting and helpful. You will be sent a copy of our report in due course. You are welcome to stay to hear what the minister has to say.

11:49

Meeting suspended.

11:51

On resuming—

The Convener: To conclude the oral evidence for our marine environment inquiry, I welcome Ross Finnie, the Minister for Environment and Rural Development, and his officials. I thank him for his written submission, which has been circulated to members and is very helpful as always.

I invite the minister to introduce his officials and to make a brief opening statement.

The Minister for Environment and Rural Development (Ross Finnie): Thank you, convener. I have congratulated you personally on your appointment as convener of the Environment and Rural Development Committee and, as this is my first appearance before you in an official capacity, I take the opportunity to congratulate you formally.

This morning, I am joined by David Wilson, who is head of marine in the Environment and Rural Affairs Department, and by Fiona Harrison, David Palmer and David Mallon, all of whom are engaged in the policy area of marine development.

As you said, the committee already has my letter, which was sent with a briefing paper. I hope that that was helpful. It definitely describes the up-to-date position on the many and several developments that are central to our policy development, all of which have been covered as part of the committee's inquiry. Our general vision, which I hope we all share, is of a clean, healthy, safe, productive and biologically diverse marine and coastal environment that is managed to meet the long-term needs of nature and of the people.

"Seas the Opportunity: A Strategy for the Long Term Sustainability of Scotland's Coasts and Seas", which sets out the vision and shows how the Scottish Executive intends to put it into practice, was founded on the guiding principles of sustainable development. The strategy also presents the means of delivery, the fundamental element of which is stakeholder participation to inform policy development and drive forward implementation.

As the committee will be aware from the evidence that it has taken—I have read the *Official Report* of the earlier meetings—this is a hugely complex area. It certainly became clear to us that we needed wider stakeholder engagement to inform us of the various aspects that have to be melded together so that we are clear on the policy content and framework, on the difficulties that have to be reconciled and, based on a much better-informed policy agenda, on whether regulation or legislation is needed. To that end, in September 2005 I established the advisory group on marine and coastal strategy. As the committee will know from the information that we have supplied, AGMACS has many members; indeed, I note with interest that the majority of them have given evidence to the committee. Both the committee and the Executive wish to hear from experts in the field.

AGMACS will report later in the year, but its emerging recommendations have greatly assisted us to firm up our understanding of, and to simplify, the complex issue of marine spatial planning—which is very different from terrestrial planning—and the role that it can play. The group is also

considering the relationship between marine nature conservation and sea fisheries and the many developments that are taking place at European and United Kingdom levels.

We share the committee's view that the marine environment is a hugely important subject and we welcome the committee's inquiry. In conjunction with AGMACS, we will proceed to define more clearly the policy implications of our work. I am happy to answer questions.

Richard Lochhead: Looking after Scotland's marine environment will require considerable engagement with the European Union. In your briefing to the committee, you mention the EU maritime green paper and the marine strategy directive. In that context, it was with great interest that I read the leaked ministerial advice from the head of the Executive's Brussels office, which has been in the news this week. The advice was sent to the First Minister on 27 September 2006 and it was copied to you. As I am sure you will know, it says that Scotland's views on European issues are often ignored in negotiations with Whitehall to reach a UK line and that we are sidelined and simply not taken seriously. Did you read that document when you received it? If so, what steps did you take to respond to it?

Ross Finnie: You would not expect me to comment on a document that is purported to have been read by you and which is purported to have been leaked to the press.

However, I can give a direct answer to your suggestion that I am sidelined in meetings with Whitehall—I am never sidelined and always participate. I can speak only for my department; in no sense do I mean that that might not apply to other departments' dealings with Whitehall. I have attended European Council meetings over a period of nearly four years. My department has by far the most developed interrelationship with Whitehall. There is regular dialogue at official and ministerial level in advance of every Council meeting, which includes Welsh and Northern Irish representatives. The purpose of those meetings is to develop a clear understanding of the UK line.

I have attended some 41 meetings of the European Council and have always been a full participant in them. At a European Council meeting, what is important is not so much who makes the official opening statement on what the UK line is, but what happens in the meetings that take place between the Commission, the presidency and the member states. At meetings of the fisheries council, the presidency frequently requests that member states' delegations should comprise only a minister and two officials. The UK delegation is the only exception to that rule. In the UK's case, it is always requested that two

ministers be present, including the Scottish minister.

The Convener: I do not want us to pursue this line of inquiry because—

Richard Lochhead: It is crucial to the inquiry on the marine environment.

The Convener: That is not the advice that I have.

Richard Lochhead: What advice do you have that my line of questioning is not relevant to the inquiry on the marine environment?

The Convener: You are pursuing a different agenda. Perhaps you could direct your question at the subject of the inquiry.

Richard Lochhead: The briefing that the minister has provided says that engagement with the EU is required, so I would have thought that the issue that I have raised was central to the debate.

The Convener: You are sailing quite close to the wind.

Richard Lochhead: The advice from the Brussels office, which I assume the minister has seen, identifies his department as being the biggest victim of the fact that Whitehall does not take into account Scotland's interests. Throughout the document, fisheries are mentioned as the best example of that. Has the minister read the document?

12:00

Ross Finnie: I do not want to fall out with Richard Lochhead, but I want to make it absolutely clear that I am not concerned about speculation about a leaked document—

Richard Lochhead: But it is—

Ross Finnie: I am not interested in what draft the document was or where it came from. I am here to answer questions from committee members honestly and openly and I am stating categorically that I, as a minister representing Scotland on the marine environment in Europe, have never been sidelined and am a full participant in discussions. If Richard Lochhead wants to challenge me on that, there are serious issues between us. However, that is the basis on which I proceed.

Therefore, I am happy to take questions on my approach to the matters currently under discussion, be they the EU marine thematic strategy and framework directive, the green paper on a future maritime policy for the EU, or the international convention controlling human activities in the marine environment. We are

actively involved in those matters at ministerial and at official level.

Richard Lochhead: I am not challenging you, minister; I am talking about a civil servant's impartial advice—

Ross Finnie: What advice? It is not advice.

The Convener: Richard, I—

Richard Lochhead: Can I ask another question, convener? It is on the marine environment.

The Convener: No, not at present. I want to move on—

Richard Lochhead: So you do not want this discussion to take place.

The Convener: I will bring you in later on the marine environment.

Mr Ruskell: The commitment to a UK bill at Westminster brings significant opportunities for devolution of more powers to the Scottish Parliament, where that makes sense. What does the minister think are the main areas that we should consider for greater devolution?

Ross Finnie: One of the great difficulties that we have had throughout the process has been that, although I have understood perfectly why one might want a bill, the precise policy content has been less than clear for a while—I am bound to be honest and say that. That is not to say that we are unaware of the issues, but there has been a lack of clarity, which has made it difficult for us. As you are well aware, under the provisions of the Scotland Act 1998 the relationship is very complex. We have exclusive powers over most matters out to 12 nautical miles and we have exclusive jurisdiction over sea fisheries out to 200 nautical miles. Certain amounts of offshore licensing are now more clearly controlled by the Scottish Executive Enterprise and Lifelong Learning Department, but there are reserved matters in relation to specific licences, which I do not need to rehearse.

There has been helpful thinking south and north of the border recently. We did not commit to a bill and, as I said, the reason for setting up AGMACS was to enable us to be much clearer about what the policy content might be. It has become clear to us through AGMACS that marine spatial planning, which is not a well-developed concept elsewhere, offers an opportunity not only to separate out some of the complex interrelationships but to simplify regulation and the regulatory framework. There is a shared view on that. A difficulty is that, although we can clearly argue that it would be helpful if Scotland had jurisdiction, there is the issue of how we manage the boundaries. I am thinking particularly about the Solway firth and the

Tweed, and the line that is defined by the Scottish Adjacent Waters Boundaries Order 1999.

As a result of constructive discussions, the policy content that will be consulted on through the forthcoming white paper has become much clearer in Whitehall. That has allowed us to consider whether we could—I stress “could”—construct overarching policy principles in relation to sea fisheries management, marine conservation, marine spatial planning, offshore structures and so on, which might permit us to have jurisdiction. However, the issue remains difficult, particularly in the context of sea fisheries and the movement of vessels, for example. It is quite difficult to be definitive about all that, but I think that there are opportunities to provide greater clarity. That said, instead of pretending to construct something without knowing the outcome either of the draft UK bill or of any potential Scottish legislation, we have tried first to achieve greater clarity in the policy content.

Mr Ruskell: Last week, we had quite a constructive debate on the draft Conservation (Natural Habitats, &c) Amendment (Scotland) Regulations 2007, in which the Deputy Minister for Environment and Rural Development followed up on David Mallon’s commitment to the Public Petitions Committee to investigate any gaps in the regulations, particularly with regard to the marine environment. However, the deputy minister stressed the need to discuss those issues with Westminster. I wonder whether you can tell us what discussions have taken place with Westminster about our obligations under the habitats directive.

Ross Finnie: At the moment, we are having extensive discussions on the matter. Indeed, I am glad that my team have been able to make it to this meeting, because they have been either in videoconference rooms or in discussions with Whitehall. One cannot discuss the policy content set out in a white paper on a proposed marine bill and its ramifications and implications for Scotland without also looking across the piece at the various and several sets of regulations that currently apply, including the habitats directive. We are not simply putting issues such as marine spatial planning, marine conservation and, indeed, the habitats directive into separate boxes; instead, we are trying to take as holistic a view as possible of the issue in order to assess the scale of the operation and to work out how we can marshal these matters into whatever regulations might be required and where in Scotland they might best be delivered.

Mr Ruskell: You mentioned AGMACS’s emerging conclusions. When is the group due to present its final conclusions?

Ross Finnie: I believe that the group was originally due to report just after the summer or in the autumn. Members might recall that the Queen’s speech did not mention a marine bill. However, with the announcement of the white paper’s publication, we have tried to accelerate the process and a draft report will now come forward in February or March. AGMACS is a very valuable body of experts, and I am anxious that the Parliament and everyone else should be able to benefit from its advice. Obviously, we all have political views on the matter. However, I want to have an evidence base on which to proceed in responding to the white paper and seeking to set out our views more clearly.

Mr Morrison: I have two brief questions, the first of which relates to competence and the meaningful devolution of powers. Where do the inshore fisheries groups that are being established fit into the Executive’s thinking? The issue, again, involves timescales. If I recall correctly, our competence extends in the first instance to 6 miles out and, then, to 12 miles out. Where have we reached with that, and how does it fit into what the Executive is doing in conjunction with the UK Government?

My second question relates to the nationalists’ ever-growing paranoia over Europe’s longest-serving fisheries minister. I wonder whether he will remind us how he and his Westminster colleagues worked so sensibly and constructively to safeguard our fish farming industry and how, led by Ross Finnie, Scottish ministers worked with the Prime Minister. That approach, which was scoffed at by the London leader of the Scottish nationalist party, helped to establish the minimum import price. I should also point out that ministers worked very constructively to secure additional quota, not least on the west coast of Scotland.

Ross Finnie: Under the Scotland Act 1998, our competence in relation to the 6-mile and 12-mile limits, inshore fisheries management or integrated coastal zone management is neither questioned nor threatened. However, we are slightly concerned that, as far as the better management of our seas is concerned, a 6-mile or 12-mile limit might be a bit fictitious. After all, such limits do not affect individuals who are licensed to fish in those areas.

However, there are broader issues. Although we have established the inshore fisheries management areas and have integrated coastal zone management, there is a feeling that all those elements need slightly greater cohesion. That is one of the issues that the AGMACS group is considering. It is trying to discover what can be done, structurally, to bring about a sense of greater cohesion without detracting from the existing powers or folding it all up and starting

again. Some of the thinking that has been done in AGMACS about the use and development of marine spatial planning could be helpful in that regard.

Without repeating myself at length, with regard to your second question, I can only say that I am sure that my officials and I engaged efficiently with Whitehall and the United Kingdom Government on the issue of the minimum import price in relation to the salmon dumping allegations against Norway.

In terms of representation in Europe, I have seen no advice suggesting that we are not able to carry out those duties perfectly effectively.

Mr Brocklebank: I do not want to dig into the allegations from Richard Lochhead about the alleged report. However, given that you are seeking greater cohesion and have expressed your view that Scottish and UK ministers are working well together, perhaps you could comment on the views that were expressed earlier this week by Bertie Armstrong of the Scottish Fishermen's Federation. He said that an agreed position between Scottish ministers and the SFF was eroded from elsewhere—I assume that he was talking about UK ministers. Could you comment on that?

Ross Finnie: I would not want to get myself into the mind of someone else. That is always dangerous territory. I can surmise only that Bertie Armstrong was disappointed with the outcome. In the final stage of the negotiations on effort, it was clear that we had fulsome support from Germany, Denmark and Holland when the figures of effort control fell below the 15 per cent level. My view is that the outcome was related less to anything that might have been said by the Department for Environment, Food and Rural Affairs and more to the fact that those member states believed that the reductions in effort were reasonable. The states that pressed the matter further and secured further improvements in the final package were Denmark and us. That is all that I can say; if you want to know more, you will have to talk to Bertie Armstrong.

Mr Brocklebank: As you have said, the area that we are discussing today is extremely complex. Many witnesses have told us that we are not going to get a one-size-fits-all solution to the problems. We have also heard that it may be necessary to simplify the regulations. Could you give us your broad view on how marine spatial planning could and should be democratised in such a way that it answers all those conflicting interests?

Ross Finnie: I am not sure what you mean by "democratised". I know what the word means, but I am not sure what you mean by using it in relation to marine spatial planning.

Mr Brocklebank: There are many different tiers at work, some of them relating to local government, some of them relating to affairs beyond the 12-mile limit. I want to know whether you feel that we are already in danger of being overregulated.

12:15

Ross Finnie: Yes, I do. One of the advisory group's sessions was almost entirely devoted to deliberations concerning that issue, the concerns that people have about the existing regulation and their feeling that having another regulation might simply confuse the matter. However, those who have a great deal of expertise in marine spatial planning—and there are not many of them in the UK—began to describe this three-dimensional process and to clarify what activities could take place without conditions and what activities could take place with conditions and how that would be managed.

The view that clearly emerged was that marine spatial planning offers a solution. Instead of having a whole lot of separate regulations, we could fashion a marine spatial planning model over time that would greatly simplify the process and give clear structural definition on what we can do in certain waters and in certain given circumstances and how we should do it.

If we decide to go down that road, great care will need to be taken in ensuring that marine spatial planning achieves that kind of aim. That is an important point. If all that marine spatial planning achieved was to impose an additional layer of bureaucracy, it would serve no purpose. If that were to happen, we would be left with multifarious marine regulations and a system of marine spatial planning. We are not going to get rid of all the regulations, but it should be possible to create groups of regulations that would fit into a marine spatial planning framework.

Mr Brocklebank: So, to be absolutely clear, is it the Executive's intention that marine management organisations will absorb some of the interests? I assume that you do not want another layer of bureaucracy to be placed on top of them.

Ross Finnie: Absolutely. Two issues have emerged already. I think that it is clearly understood at the UK level that if the UK Government were to create a marine management organisation for English waters—although, depending on the definitions, such an organisation could extend into UK waters—Scotland could be left to administer its own waters. I do not think that that is beyond the wit of man—I am speaking personally as the Executive has not yet come to a view on the matter. However, we would have to look seriously at greater integration, for example,

and perhaps at a different role for the Fisheries Protection Agency. There is also what happened with the marine labs—I refer to the MV Scotia—or the situation with regard to SEPA and the vessel that is under its management. Minds would have to be opened to creating something that reduced the level of interference and took the opportunity to simplify things.

Rob Gibson: There has been a lot of discussion of the competition and conflict that exist among the different users in the marine environment. At present, voluntary organisations are trying to gain an overall picture that could lead to the development of marine spatial plans, and organisations such as the inshore fisheries groups are trying to protect the interests of fishermen in the current climate. How can we integrate the approaches of those two types of organisation to manage the marine environment better?

Ross Finnie: I am hopeful. I say that because the composition of the advisory group includes all those organisations. I am bound to say that, when the group first met, I wondered whether I would be chairing a constructive group or putting on a United Nations blue beret and trying to negotiate a settlement. Since then, I have been enormously encouraged by the fact that, although from time to time all the organisations have trenchantly put forward their viewpoint, a high degree of understanding has developed. Although everyone has their own position, they all know that, in truth, they cannot operate without an element of co-operation with one another. That is the case for every single group around the table: the voluntary organisations; the inshore fisheries groups; those who are involved in integrated coastal zone management or in the operation of marine organisations; the Maritime and Coastguard Agency; and the scientists.

My earnest hope is that, as part of the advisory group's preliminary recommendations, it will start to point the way to how we can harness all the interested parties instead of allowing them to drift apart—indeed, that is one of the tasks of the group. If we were able to construct such a formula, we could benefit from all the very real interests, representatives of many of which have given evidence as part of the inquiry. That would give Scotland a great lead. It would be better to do that instead of operating in separate compartments and would induce a feeling of greater cohesion among the various bodies, whether inshore or offshore.

Rob Gibson: I hear what you are saying on the conflict between current uses and the wish list. The danger is that “wish list” is the very term that we might use to describe the reversing of previous losses in biodiversity by 2030, as referred to in paragraph 10 of the AGMACS report, unless some

structure, or superstructure, can be put in place to make that a priority. What will that superstructure be?

Ross Finnie: In relation to the three-dimensional aspect of the ocean, if we try to identify what is required to achieve the objective that you mention, we may find that some activities are in conflict. It is better to know that, rather than simply saying, “This is the objective.” We then have to work out how to accommodate the conflict within the overarching plan. We have to identify—precisely—the conflict between, for example, a fishing activity and an environmental objective. We have to ask whether it is a general conflict or whether there is evidence of a particular problem.

More resource will be required, and it will not necessarily be easy to obtain. We will need a better handle on the scientific base to ensure that we can reach our objectives. The regulations accompanying an overarching view of marine spatial planning could greatly assist in producing a—well, I do not like the word “superstructure”, which, like “supertanker”, has a slightly heavy tone to it; that might not be the image we want, given what supertankers contain. However, I understand your point. There has to be some overarching strategic framework within which conflicts can be reconciled.

Rob Gibson: Ought the committee to report to the Government that comes in after the election on 3 May that marine spatial plans will require statutory underpinning? If so, how should such underpinning be achieved?

Ross Finnie: In my opening remarks, I said that there is clearly a case for some element of Scottish jurisdiction. Discussions continue. People who operate on the borders of any marine division will be concerned by any lack of uniformity or consistency in what we are trying to achieve. Such issues are more difficult in the maritime context than in the terrestrial planning context, but they have to be resolved. If there were an overarching way of achieving that with an English jurisdiction and a Scottish jurisdiction, it might be helpful. We are not there yet, but jurisdiction and legislation will be needed.

Eleanor Scott: I want to pursue the democracy issue and would be interested to hear your views on the Scottish coastal forum's proposal of having 11 coastal units, each with a local coastal partnership. Those partnerships would be created to implement regional policy statements covering what was needed in local coastal and inshore environments. What is your view of that model? How could democratic input be ensured for it or any other model? We elect people to our local councils, which decide planning issues on land, so we have democratic input there. However, if a group included people who had accreted from

various places and who had not all been democratically elected, how could we ensure that local voices were heard, rather than just the voices of interest groups that, in some cases, would hold a veto?

Ross Finnie: That is an horrific problem. I know that I do not have to tell Eleanor Scott this, but in the terrestrial planning context, there is someone who has a direct interest in, or a conditional missive for, the land, and who is therefore seeking planning permission for its use. There is a local authority with a range of statutory responsibilities that impact on all the uses to which the land might be put. There is also an arbiter, in the form of all the legislation on town and country planning, and the parties and their interests are clearly identified.

The absence of a clear definition of ownership—with the exception of the Crown Estate—gives rise to serious difficulties with immediately being able to alight on a simple structure through which we can accord people their rights. We cannot do that simply in terms of economic interest because that would exclude a huge number of people who have a real interest in the marine environment.

I am being open about the matter; we are aware of it, but we do not have a simple and ready solution to it. There is an aspect of terrestrial planning that simply does not transfer to marine spatial planning. The cornerstone of how we identify and define legitimate interest is very different in the circumstances that arise in the marine spatial planning environment.

It would be great to have the coastal units, but we must be clear that if we were to empower them—we would have to give them some power—they would have some input to the marine spatial planning regime, but where is the legitimacy for that? We should get the structure right first. Then, as a matter of urgency, we must examine their democratic contribution.

Eleanor Scott: The convener has made the point several times that people can be stakeholders even though they do not think of themselves as such. It is important to ensure that all voices are heard in whatever structure is put in place.

Ross Finnie: We must have a clearer definition of interest. However, that is much easier to achieve in the terrestrial planning context.

Richard Lochhead: There are continuing discussions on the production of a strategy and policy on the governance of our marine environments. Is there a danger that that approach could be flawed if, for example, we could not prevent a leaky oil tanker from coming into Scottish waters and damaging our marine environment? A lot of people think that, if we are to try to simplify the governance of our marine

environment and consolidate the complex legislation on it, we must ensure that the Scottish Parliament has the necessary powers. I was interested to see some quotes from you in the press recently on that theme. What is your thinking on extending the Parliament's powers over our marine environment?

Ross Finnie: We should be cautious. I am not sure what powers one would take over a crippled vessel whose crew had to be removed for their own safety. One would be presented with a rock-and-a-hard-place decision on the cargo of the vessel and the oil used to propel it. Would we keep the vessel at sea, which might ensure that the pollutant was released, or would we take the balanced decision of allowing it to be beached and hope to recover as much of the pollutant as possible? I am doubtful whether we could say, "Will you please take this vessel somewhere else?" I would be cautious about going down that route.

On the marine environment, I am talking about a cohesive and comprehensive review of the issues that the committee is addressing, including marine conservation, sea fisheries and the structure, which is the point that Ted Brocklebank made. How do we create a system that allows things to be done in a more easily comprehensible way but which does not add great layers of regulation? Clearly, there is a case for an element of Scottish jurisdiction. What I am yet to reconcile or resolve—it is a big issue—is what we should do about the existing lines and delineations that are made in terms of boundaries. How do we control that? Witnesses have told you that they would be horrified if there were different systems in operation and that that would only add to their confusion. The discussion is complex, but if the resolution to some of the issues can emerge, there is a case.

12:30

Peter Peacock: I will ask about climate change, which is referred to in the latter part of your submission.

I will raise two points. The first is to use climate change as an illustration of some of the interactions between different bodies in Scotland. Secondly, I would like to get your view on our preparedness for the consequences of climate change. Your submission states that climate change is one of the largest threats—if not the largest threat—that faces us today. Those of us who had the privilege to hear Al Gore speak in Glasgow last week know that he stressed the interdependence of nations around the globe and the importance of working together.

The two matters that I want you to address are domestic. What are the biggest potential threats from climate change in respect of potential species invasion or species desertion of our waters because of temperature changes? I am thinking of things that affect corals and plant life on the sea bed, and things that affect the coastal environment, such as more coastal erosion and the effects on beaches, salt marshes, mud flats, the machair, the bottom end of river systems and so on. How prepared is Scotland at local level for dealing with the consequences, as opposed to the causes, of changes?

My second question is about what you see as being the principal instruments for dealing with the issue at the local level. Should there be principally a set of Executive actions or actions that are taken through executive agencies, such as SNH or SEPA? Should local authorities, working in partnership, be pre-eminent at the local level? What is the role, in that context, of coastal zone management and spatial marine planning? Are the current systems that you have at your disposal fit for purpose and adequate for the challenges that we—and, indeed, you—say that we need to face?

Ross Finnie: I would not want there to be any confusion between my department and the Home Office.

Peter Peacock: Granted.

Ross Finnie: I am obliged.

The first issue that we are perhaps more alive and alert to on climate change is coastal erosion and the impact of climate change on structures that link small island clusters and offshore structures. Without a shadow of a doubt, those become much more exposed as a result of changes in climatic conditions, such as higher winds and higher tides and the accompanying rainfall. We are certainly not in a perfect situation, but in collaboration with local authorities there is a continuum of work in that area. Warning guides have been developed and are constantly updated by SEPA and other agencies.

What is perhaps less well documented, but is clearly cause for concern, is that there may be accelerated changes in the make-up and nature of our marine environment. The measures that are or are not in place in relation to marine conservation could be quite radically affected by that. As we know, we have some of the world's experts in marine science here in Scotland, but it is a difficult field because of the nature of what one is trying to assess.

The question of who we should bring into play in developing our strategy relates to one of the big arguments for having an overarching strategic approach to management of the marine environment. That will make it clearer what the

various levels of responsibilities are and will, therefore, define more clearly which agency or groups of agencies will have responsibility for either improving our knowledge through research or giving effect to policy measures. That is one of the more compelling reasons for having a more comprehensive view of marine management. As I said earlier, that will call for consideration of whether existing structures such as the Scottish Fisheries Protection Agency, SEPA and the marine laboratories can give effect to some of the measures. I say to Peter Peacock that they all do bits of work, but there is an issue about having a more comprehensive view.

I am in no doubt that, unless we take such a view, we will not be in a position either to be aware of, or to take measures that might anticipate, changes in the marine environment over which we might not have any control. It might well be that we should be making certain responses and that, if we do not have a more comprehensive view, we might be in difficulties.

The Convener: Richard Lochhead wants to ask a very small supplementary on climate change.

Richard Lochhead: On 9 January, Professor Shimmiel of the Scottish Association for Marine Science told the committee that there is no observation system in Scottish waters. That surprised me—after all, Scotland has 25 per cent of the EU's waters—and when I pressed him on the point, he explained that the Irish, the French, the Dutch and the Germans all have systems to monitor the impact of climate change on their marine environment. Are you aware of that? If so, why has such a system not been introduced in Scottish waters? I should point out that Professor Shimmiel also said that the systems were, to an extent, publicly funded.

David Wilson (Scottish Executive Environment and Rural Affairs Department): I have discussed that issue with Professor Shimmiel. We have a number of observation mechanisms that feed into various scientific processes; in particular, we have developed data systems that are targeted at climate change.

I think that Professor Shimmiel's point was that the information, particularly about inshore waters around Scotland, is not as fine-grained as he would like it to be. Although we probably do not have as much information about that issue, we need to acknowledge that Scotland has an awful lot of coast and that its coastlines are complex and diverse. As I said, we are discussing with Professor Shimmiel what could—and should—be done to address the matter.

Richard Lochhead: Professor Shimmiel mentioned

“automated systems in the sea to measure factors such as

the temperature, salinity, nutrient levels and perhaps even plankton levels".—[*Official Report, Environment and Rural Development Committee*, 9 January 2007; c 3842.]

He seemed to think that such systems are absent from Scottish waters.

David Wilson: Again, he is emphasising his point that we could do more to gather more fine-grained information on particular stretches of the Scottish coast. We have a fairly good idea about what is happening overall, but he feels that the information should be more detailed and disaggregated.

Ross Finnie: Our position is that such systems are not totally absent. We are well aware of Professor Shimmield's differing views, his desires and his representations on how matters might be improved. However, it is not correct to conclude that we do not have such systems. The professor believes that they could be better in certain parts of the inshore waters, and I am happy to discuss the matter with him.

The Convener: I move on to Nora Radcliffe, whom I should thank for being so patient.

Nora Radcliffe: It is quite an opportune moment to come to me, because I want to widen the discussion about how data and information are collected and used. What is the Executive doing to identify gaps in our knowledge and information? For example, one key data gap that has been mentioned is the absence of a comprehensive sea-bed habitat map. Moreover, we do not know whether berried female prawns that are caught are returned to the sea. Is the Executive considering that point and looking at the baseline data that we need? How can we organise and disseminate all that information in a useful and usable way?

Ross Finnie: We are, of course, interested in having data. We do not collect them ourselves; we employ a number of universities and academic institutions and we part fund marine laboratories to do that. Indeed, we are very dependent on people who have serious expertise for those data. As I said earlier, despite the fact that Scotland has some of the best marine biologists, mapping all of our waters to a distance of 200 nautical miles is not easy. Although we have vast volumes of data, I cannot sit here and suggest that we have an absolutely comprehensive databank.

In my defence, I point out that we have come up with ideas about where gaps might be, but when I have discussed the matter with scientists, they have never been all that clear about which gap should be filled. It all seems to depend on one's specialism. That is not an excuse. We spend considerable sums on the matter, but it is complex. The issue is high on the agenda, but it is expensive to gather the data. It is not easy to map all our waters; we have to hire vessels to do the

work. It is a developing area, and although we have quite a lot of data I would be careful and cautious in my response. David Wilson might want to comment.

David Wilson: We probably have much more information about the marine environment than any one of us thinks we have, but we have much less than we need. In the light of climate change in particular there is a continuing policy need for new information, whether it is specifically on fisheries, on aquaculture or on impacts on marine habitats. We need lots more information.

Our approach until now has been that as and when there is a clear policy need to answer a question we ensure that the research is done to answer it. However, increasingly there are so many questions and so much information is needed that we have tried to take a wider view and almost to predict what questions we will need to address in the future. That is the case, in particular, in relation to sea-bed mapping. As the minister said, it takes time and it is expensive. We already have high-quality facilities within Government, within the universities and elsewhere. There is great potential for such work, but perhaps the key point is that we must prioritise what we need to do, work out what the policy need is and try to predict what the policy need will be. Otherwise, very substantial expenditure could be required when, clearly, there are limited resources.

Nora Radcliffe: I will ask a parallel question. How you handle all the information, store it, map it and co-ordinate it is a science in itself. Is any research taking place on information handling and the specifics, such as how to produce maps? That is also a skilled area. Has any research been commissioned on how best to deal with the technical aspect of what you do with the information?

Ross Finnie: A lot of the information has been produced at scientific level within universities and other institutions. It is fair to say that they have developed considerable databanks and exchanges because, as all of our scientific observers know, there is no point in reinventing the wheel. The exchange of information at that level is better than you might imagine. One difficulty is that information might have to be derived from different sources, but I do not think that we have had difficulty in accessing existing information, save only that it is in different sources and is cross-referenced through a variety of institutions. The information is not necessarily located in Scotland—on some topics, a more international perspective is required before coming to a conclusion.

Nora Radcliffe: I will bring the discussion down to a much more specific and local level. Shetland has been producing maps of areas around the

Shetland Isles. Are you looking at the lessons that have been learned about the practicalities of putting information on maps? Is more work needed on the practicalities of doing what is, on the face of it, quite simple, but is actually quite a complex technical problem?

Ross Finnie: That is one of the pilots that are part of the Scottish sustainable marine environment initiative. There is a pilot on Shetland, a pilot on Mull, a pilot on the Firth of Clyde and a pilot off the coast of Berwickshire. The pilots all deal with different aspects of data collection, data gathering and mapping. Certainly, all those aspects will be crucial in relation to, for example, marine spatial planning. The four pilots are all slightly different, have slightly different objectives and are deliberately located off different parts of the coast of Scotland to give us experiences of different activities and different marine features that require to be captured in the data. The four pilots are crucial to our work. It is not intended that the data should be seen as being exclusive to Shetland or to the Firth of Clyde. Once we have completed the pilots, there will be an opportunity to share the data that we gather from them all along the coast of Scotland.

12:45

Mr Ruskell: We have had a useful discussion about the regulatory powers at Westminster and Holyrood in the context of the United Kingdom marine bill. What are the minister's views on other bodies that have regulatory powers, such as harbour authorities that are not directly accountable to you on environmental issues? Are they up for discussion internally? Are you considering their roles and whether their powers could be transferred to a more strategic body or planning structure?

Ross Finnie: We must be slightly careful. There is no question but that the privatisation of our ports and harbours has given rise to quite a difficult structural issue. Public duties and obligations previously accompanied some of the ports and harbours. As for obligations that are placed on authorities such as—whisper it—Forth Ports authority, which is a public listed company, there is no doubt that the clear obligations that the habitats directive imposes relate more to the fact that it is a private body that performs the functions of a previously publicly regulated body. The matter is complex. Mark Ruskell and I discussed the matter during the passage of the Environmental Assessment (Scotland) Act 2005. When a body previously had a public duty and obligation, that duty is diluted. I accept that—it is inevitable when a different company that is privately funded is created, but that does not get the organisation out of jail in every case throughout legislation.

Because of the current controversy, we have examined the situation.

I will be blunt: the advisory group has taken well over a year to become very much better informed of the key elements in the top strategic plane of thinking, but we cannot stop there. If we have a better framework and if we are trying to cut through all the regulation, it will be sensible not to stop at that point but to use that opportunity to consider the impact of environmental regulation on all our coasts, irrespective of the ownership or direction of a harbour body such as that to which Mark Ruskell alluded. However, we have not taken that forward. The group is examining that major issue and has been working hard. It has taken more than a year to move in that direction.

Mr Ruskell: Sure. We can return to the issue when we consider two petitions on ship-to-ship oil transfers. I am glad to hear that the matter is being considered. If any European judgment were given on whether the habitats directive was being implemented properly, that would come home to roost for the Executive as well as—

Ross Finnie: I will make what I said clear for the *Official Report*. In relation to considering the regulation of ports and harbours generally, I said that we recognise that function. In relation to the habitats directive, we are clear about the application of the directive to the application by Forth Ports and its duties under that. As my deputy minister has made clear, we are also aware of issues that have arisen as a result of European Court of Justice judgments and of the need for us to consider them actively, which we are doing. Those issues are connected, but I do not want them to overlap generally.

The Convener: We are all out of questions and if we continue much longer we will be all out of members. I thank the minister and his officials for attending. We have enjoyed the discussion, which has been interesting. We will reflect on what has been said and consider our report in due course.

Does the committee agree to consider the evidence that has been received and the drafting of our inquiry report in private at future meetings until the report is agreed?

Members indicated agreement.

The Convener: Our next meeting will be on Wednesday 31 January, when we will hold day 2 of stage 2 of the Aquaculture and Fisheries (Scotland) Bill. Members are reminded that the deadline for lodging amendments to the remaining sections and to the schedule is 12 noon this Friday. We will also begin our consideration of the Cairngorms National Park Boundary Bill with a short evidence session with John Swinney.

Meeting closed at 12:50.

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