



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Rural Economy and Connectivity Committee

**Wednesday 15 March 2017**

**Session 5**



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**RURAL ECONOMY AND CONNECTIVITY COMMITTEE**  
**9<sup>th</sup> Meeting 2017, Session 5**

**CONVENER**

\*Edward Mountain (Highlands and Islands) (Con)

**DEPUTY CONVENER**

\*Gail Ross (Caithness, Sutherland and Ross) (SNP)

**COMMITTEE MEMBERS**

\*Peter Chapman (North East Scotland) (Con)  
\*Mairi Evans (Angus North and Mearns) (SNP)  
\*John Finnie (Highlands and Islands) (Green)  
\*Rhoda Grant (Highlands and Islands) (Lab)  
\*Jamie Greene (West Scotland) (Con)  
\*Richard Lyle (Uddingston and Bellshill) (SNP)  
\*John Mason (Glasgow Shettleston) (SNP)  
\*Mike Rumbles (North East Scotland) (LD)  
\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Bertie Armstrong (Scottish Fishermen's Federation)  
Michael Bates (Scottish Seafood Association)  
Professor Robin Churchill (University of Dundee)  
Calum Duncan (Marine Conservation Society)  
Kenneth Hannaway (Scottish Government)  
Scott Landsburgh (Scottish Salmon Producers Organisation)  
Brendan Rooney (Scottish Government)  
Alistair Sinclair (Scottish Creel Fishermen's Federation)

**CLERK TO THE COMMITTEE**

Steve Farrell

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Rural Economy and Connectivity Committee

Wednesday 15 March 2017

*[The Convener opened the meeting at 10:03]*

### Implications of European Union Referendum (Fisheries)

**The Convener (Edward Mountain):** Good morning, everyone, and welcome to the ninth meeting in 2017 of the Rural Economy and Connectivity Committee. I remind everyone to put their mobile phones on silent.

No apologies have been received, so we move straight to agenda item 1, which is consideration of Brexit and its implications for fisheries. We will have a round-table discussion of the implications for Scotland of the outcome of the European Union referendum. This is the first in a series of sessions that the committee will undertake, and today we are focusing on fisheries.

I propose to go round the table and ask everyone to introduce themselves. I point out to those who have not been to a committee meeting before that the committee is supported by a clerking team, the official report and a gentleman from broadcasting, who will, when I nod at him, cut you off if you have been speaking for too long.

I will start by introducing myself. My name is Edward Mountain, and I am a Conservative regional MSP for the Highlands and Islands.

**Peter Chapman (North East Scotland) (Con):** I am a Conservative regional MSP for North East Scotland and shadow cabinet secretary for rural economy and connectivity.

**Bertie Armstrong (Scottish Fishermen's Federation):** I am chief executive of the Scottish Fishermen's Federation, which is a trade association that looks after a large proportion of the catching sector in Scotland.

**Mairi Evans (Angus North and Mearns) (SNP):** I am the Scottish National Party MSP for Angus North and Mearns.

**Michael Bates (Scottish Seafood Association):** I am the group manager for the Scottish Seafood Association, which is based in Peterhead. We are a membership organisation that represents the fish processing sector.

**Jamie Greene (West Scotland) (Con):** I am a Conservative regional MSP for West Scotland and the party's spokesman on connectivity.

**Scott Landsburgh (Scottish Salmon Producers Organisation):** I am chief executive of the Scottish Salmon Producers Organisation, which represents salmon farmers.

**John Finnie (Highlands and Islands) (Green):** I am a Green MSP for the Highlands and Islands.

**Richard Lyle (Uddingston and Bellshill) (SNP):** I am the SNP MSP for Uddingston and Bellshill.

**Mike Rumbles (North East Scotland) (LD):** I am the Liberal Democrat MSP for North East Scotland and the party's spokesperson for everything on this committee.

**Professor Robin Churchill (University of Dundee):** I am professor emeritus of international law at the University of Dundee.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I am the SNP member for Banffshire and Buchan Coast.

**Calum Duncan (Marine Conservation Society):** I am head of conservation in Scotland for the Marine Conservation Society.

**Rhoda Grant (Highlands and Islands) (Lab):** I am a Labour MSP for the Highlands and Islands.

**Alistair Sinclair (Scottish Creel Fishermen's Federation):** I am national co-ordinator for the Scottish Creel Fishermen's Federation.

**John Mason (Glasgow Shettleston) (SNP):** I am the MSP for Glasgow Shettleston.

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** I am the SNP constituency MSP for Caithness, Sutherland and Ross, and deputy convener of the committee.

**The Convener:** Thank you—we seem to have got round well. I hope that, in the course of the discussion, which we have split into themes, you will all look towards me so that I can try to bring you in. The aim is to bring you all in and make you feel included, so I ask you to try to catch my eye. If you feel that you have been going on for some time, I urge you to catch my eye, because I may want to stop you. That will save me from having to call you out and ask you to reduce what you are saying. The discussion is meant to give everyone the opportunity to say something.

The first theme that the committee would like to investigate concerns the benefits of being part of the common fisheries policy and the EU. John Mason has a question that might stimulate discussion on that area.

**John Mason:** I am not an expert on fishing—you can take it from me that I am a layperson in this area. I hear different things about the common fisheries policy. Some people say that it is the

worst thing ever, that they want to be totally rid of it and that there is nothing to learn from Europe, whereas other people say that, if it were not for the common fisheries policy, there would be no fish left in the sea. Is the CFP entirely good or entirely bad? Is there anything that we can take from it?

**The Convener:** Who would like to start? I am sure that Bertie Armstrong is the right person to lead off.

**Bertie Armstrong:** Thank you, convener—I take on board your comments about brevity and keeping an eye on control.

Europe is not composed of stupid people and the CFP is not written by stupid people. To approach the policy from a slightly different angle, there are two problems with it. First, it allows common access to—or common grazing in—our waters. That was the norm when we entered the EU: everybody fished everywhere, aside from the territorial limits, and there were no quotas. The fact that that situation was perpetuated has created a great disadvantage. The second issue is the difficulty of organising such a policy among 28—going on 27—member states. I can produce evidence on that as long as your arm. The CFP operation is an uncomfortable stumble towards compromise. Nothing happens quickly. There are much better ways of operating.

Having said that, within those constraints—and leaving aside our enormous disadvantage in this land—capacity has just about right-sized itself at the same time that the CFP has existed and, since the turn of the millennium, fish stocks have been going very much in the right direction. Fishing mortality, which was far too high, is coming down.

The CFP is the wrong process for us, and we would be much better out of it. On the other hand, it has not been a complete disaster—recognising that we are hugely disadvantaged and that it is a cumbersome and wrong process for running a sea area.

**Stewart Stevenson:** Speaking as a politician, I would say that the CFP has presented some challenges in the way in which decisions are made. It would have made rather more sense if the parties round the table making decisions were limited to those states that have fishing interests. There was a period in the not hugely distant past when the commissioner was an Austrian—in other words, he was from a country without any maritime interests of any kind.

That practice has made the decision-making process unnecessarily cumbersome. It has exposed the decision-making process to a political risk whereby countries with no direct stake in fishing have used their influence in the decision making on the common fisheries policy as a trade-off for entirely unrelated matters. That has slowed

things down and has led to sub-optimal outcomes. From a politician's point of view, that would be one of the starting places for saying that the CFP in its present form is not fit for purpose.

**Mairi Evans:** Mr Armstrong, you spoke about the time before we entered the CFP. I would like to get a bit more information about what that position was like, historically, and how the fish stocks were doing at the time, when there was essentially a free-for-all and people could fish in one another's waters.

**Bertie Armstrong:** There is an easily traceable story, which can quickly be scanned across. In the beginning, everyone thought—to generalise—that the sea was a bottomless pit of resource, and that we should have at it with the greatest of alacrity, which was roughly what happened. The war intervened and fishing lessened, so stocks increased. There was a phenomenon known as the gadoid outburst, on which there is a subject-matter expert in the public gallery. To cut a long story short, that meant that there were an awful lot of fish in the northern continental shelf. Everybody had at it with a will under those circumstances of what was basically a free-for-all. The inevitable happened and, one way or another, we had to arrive at an arrangement. By that stage, it was too late for us.

I am again generalising hugely, but the way in which the international community went about things was to put somebody in charge, which was the coastal state in whose waters the resource lay. As I say, it was too late for us. For us, the coastal state was the European Union, and that brought with it all the problems of vested interest that Stewart Stevenson has just described.

**Calum Duncan:** Clearly, we all want to have healthy seas with sustainably managed stocks. Getting to that position requires collaboration, supporting thriving coastal communities and respecting environmental and ecosystem limits. That is the important outcome from our perspective.

As for getting there, we must not throw the baby out with the bath water. There are a lot of good outcomes and articles within the common fisheries policy. Let us not think about completely starting from scratch. There is a lot of good in the policy.

Bertie Armstrong alluded to reform management and the fact that the industry has come on board. The Scottish fleet, in particular, has taken some progressive measures, and that has got us to a place where the fishing capacity matches the opportunity. We have gone from 90 per cent of stocks being overexploited in 2005 to 47 per cent now.

There are other good elements in the CFP that I wish to point out. Article 4 of the basic regulation on the CFP covers an

“ecosystem-based approach to fisheries management”

and

“an integrated approach to managing fisheries within ecologically meaningful boundaries”.

We need to take forward those sorts of aspirations.

I am sure that we all support article 17 of the basic regulation, which sets “transparent and objective criteria” to secure “environmental, social and economic” benefits. We would like wasteful discards to be ended. There might be better ways to do that, but we all agree that it is a good thing.

There are also world-leading regulations to protect the deep sea, which includes some of the most vulnerable ecosystems on earth. The deep-sea access regime, which finally came through in 2016, protects vulnerable ecosystems that are deeper than 800m and some that are shallower than 400m.

A lot of hard work has gone into getting the elements of the CFP to deliver collaborative management within ecosystem limits. Whatever our arrangements are, we can all agree that that is where we want to get to.

10:15

**The Convener:** That is interesting. Perhaps others will want to say more about whether the conservation and the work that is being done to stop the overexploitation of fish species are being led by the EU, by fishermen or by both.

**Professor Churchill:** It is worth bearing in mind the fact that the common fisheries policy is about not just the catching side but marketing, trade and structural aid. However, I assume that the committee’s main interest today is in the catching side.

It is fair to say that, until 2010 at least, the common fisheries policy was a complete disaster in managing stocks. The Commission admitted that in a paper that was published in 2009, which said that most stocks were being fished at unsustainable levels. The reasons for that are that the total allowable catches were set by politicians way above the limits that were recommended by scientists from the International Council for the Exploration of the Sea; enforcement was often poor; and there was a large amount of overcapacity in EU fleets—in other words, there were more vessels and more catching power to catch the fish than was justifiable on any economic scale. It has taken a long time to try to reduce capacity.

There are some indications that, since the common fisheries policy was reformed in 2013, the management has improved. There now seems to be a better correlation between total allowable catches and scientific recommendations.

**John Mason:** It has been mentioned that, before we were in the EU and the common fisheries policy, there were no quotas. My fear as a layperson is that, if we are out of the EU, it will become a free-for-all again and there will be no control.

**Bertie Armstrong:** I do not think that that is a possibility if we handle it properly. We have just come from a study visit to Norway. The Norwegians’ central, top, overriding priority is stock sustainability, because all other good things flow from that. We should take a leaf firmly out of that book and, in retaining the good bits of the CFP, that should be the central aim.

It was emphasised at this morning’s Brexit breakfast seminar that the fish are in our EEZ, to cut a long story very short. They are zonally attached to our EEZ, so there cannot be a free-for-all. No other country can say that it is going to catch anyway, because it would have to come here to do that—to generalise a little—and, under international law, it is our right and responsibility to regulate that. Therefore, there is every possibility of getting it sustainably right for the future.

**John Mason:** For the record, can you say what “EEZ” stands for?

**Bertie Armstrong:** I am sorry; it stands for “exclusive economic zone”.

**Rhoda Grant:** I will pull the discussion back a wee bit to some of the things that Calum Duncan talked about as things that we could replicate if we are out of the EU, such as setting quotas and fisheries management. How do we negotiate that with other people who have an interest? Bertie Armstrong said that all the fish are in our EEZ. We have people fishing outwith that area as well. Where are the real differences between being part of a big family that manages fishing and being on our own?

**The Convener:** That is an important point, which we are going to develop under theme 3. I will park that at the moment, and come back to the good and the bad aspects of the CFP.

**Peter Chapman:** I will follow up Robin Churchill’s point about there being too much catching ability a few years back. We now have better balance with a reduced capacity. Where did the vast bulk of the reduction in capacity take place? The feeling is that the reduction took place in Scotland rather than in other EU countries. Is that fair?

**Professor Churchill:** I am not sure, to be honest; it is some time since I looked at the figures for reduction in capacity. One problem with capacity is that it is not only about reducing the number of vessels; it is a question of catching power. Sometimes the number of vessels is reduced, but those that remain increase their catching capacity by having bigger engines and nets. The Commission publishes figures on that, but I do not know whether they are accurate.

**Peter Chapman:** My focus is on where the reduction in catching power took place. The feeling is that it was in the United Kingdom fishing fleet rather than elsewhere. Can anyone on the panel comment on that?

**Professor Churchill:** It was targeted very much at Spain and Portugal. I do not know whether it has been effective in those two countries, as I have not seen recent figures.

**Calum Duncan:** I can provide a broader ecological context. Around 100 stocks are fished by the UK, including Scottish boats, and by other nations, so the situation is very complex. The other side of the ecological equation is that a lot of the fish that come into the EEZ waters around Scotland, such as mackerel, spawn in the waters of other EU countries. That emphasises the ecosystem approach by thinking not just about where the fish are caught, but about where they spawn. That is where cross-border collaboration is key, in whatever structure we have.

**The Convener:** So global management is important.

**Calum Duncan:** Yes.

**The Convener:** Can Bertie Armstrong respond on who suffered the pain?

**Bertie Armstrong:** A great deal of sacrifices were made here.

Robin Churchill is right in saying that the equivalence of boat numbers is sometimes highly misleading. Some spare capacity is required; for instance, not many highly migratory species behave in the way that Calum Duncan described—a lot are much more localised. To catch mackerel on their migration in the north-east Atlantic, people need a big boat if they are not to kill themselves. They need catching capacity because the UK has a big quota, in normal terms. Therefore, as long as fishing is profitable, a bit of overcapacity is not necessarily a bad thing, provided that the regulatory regime takes charge. The vital central point is that fishermen understand that sustainability is in their best interests; although they could catch more, they do not do so. That is for two reasons: so that the market holds up and so that they are not engaged in a downward spiral to hell in a handcart.

**Stewart Stevenson:** I have a brief historical point that predates even Bertie Armstrong being at the SFF.

In the early 2000s, when there was substantial decommissioning of the Scottish fleet, a huge amount of ill will was created because the EU simultaneously provided funding to the Spaniards to increase the size of their fleet. To this very day, even though we have moved to a rather different environment, that situation influences the thinking of many people who are involved in the catching sector. The gross and demonstrable inequity of that essentially EU-driven intervention—on the one hand killing our fleet, on the other hand building up the Spaniards—is still something that you will not escape hearing a reference to in many conversations with fishermen in my area of the country.

**The Convener:** Perhaps we will leave that issue there and note that it has not all been perfect in the EU. Peter Chapman wants to probe a little the policy of how to untangle domestic policy from EU legislation.

**Peter Chapman:** We have all discovered that fisheries policy is a very complex area that possibly cannot be solved in its entirety by the great repeal bill, which will be about taking all laws back into our hands in the United Kingdom. Will the great repeal bill work for fisheries and aquaculture? Do the experts have any particular concerns about how the great repeal bill will work?

**The Convener:** Who would like to have a go on that? I would like to bring in the aquaculture interests at some stage—I give warning that I would like to push on that. However, we can start with Bertie Armstrong again.

**Bertie Armstrong:** That is a relevant question. If the great repeal bill means that the whole of the CFP will be embraced in UK law, that will not work, because relative stability and the ground disadvantage will be perpetuated. We have already discussed that with the relevant people in the UK Government. I am delighted that the word “inoperabilities” has arisen. If that was done, that would be inoperable for a number of reasons.

There is much that can be embraced. We have gone through the common fisheries policy with a pen and lined out the bits that are inoperable. Some of it is operable, provided that those big bits are taken out, but some new legislation might be needed. That will be a bit of an uphill battle, of course. Some new legislation might be needed for day 1 of Brexit, but we see that as doable. We hope that it will be.

**The Convener:** I gave a warning to Scott Landsburgh. Obviously, you are very important and your industry is an important part of fish

production for Scotland and the UK. Perhaps you would like to give your views on that.

**Scott Landsburgh:** On the great repeal bill specifically, our concern is regulatory equivalence. That is important to us. Our major competitor is Norway, which is in the European Economic Area. It has regulatory equivalence with the EU, and we expect something similar once the great repeal bill has been enacted; I know that the Cabinet Secretary for Rural Economy and Connectivity has expressed similar sentiments. We do not really have any issue with that. We have lived with the environmental regulation that we currently have. Occasionally, we might think that it is overprecautionary—I am sure that Calum Duncan has an alternative opinion on that—but nevertheless, we all seek world-class standards, and we have established them.

We do not envisage at all any dividend coming from repealing regulation. Our main concern is more commercial than anything else.

**The Convener:** On the basis that a lot of operators in Scotland also operate in Norway, I presume that the standards are fairly interchangeable. Is that an unfair assumption?

**Scott Landsburgh:** “Interchangeable” is maybe not the right word. We follow a code of good practice with 540 compliance points; that is the framework for how we operate and farm. Although there is regulatory equivalence, there is a different interpretation in Norway, and the way in which environmental regulation is enacted in Norway is somewhat different from how it is enacted here. There are some parts of that model that we would quite like, and there are probably parts of our model that it would quite like, but the overall framework is set by the EU and we both operate within that.

There are differences in approach, some of which arise from geography. Norway’s coastline is considerably different from Scotland’s coastline.

**The Convener:** Are there easier or fewer regulations in Norway compared with Scotland, or are they the same?

**Scott Landsburgh:** It is perhaps too simplistic to say that. In some instances, the approach in Norway could be regarded as more favourable to incentivising different behaviours. We are in continuous conversation with Marine Scotland about that.

**John Mason:** Mr Landsburgh, what exactly do you mean by “regulatory equivalence”? I am afraid that I am not familiar with that term.

10:30

**Scott Landsburgh:** Basically, the regulatory framework that we currently enjoy has its origins in the European Union. The regulation that the Scottish Environment Protection Agency deploys in Scotland is based on the environmental standards that are established in the European Union. We have what we call environmental quality standards, which are invoked here to ensure protection for the local environment and the wider national environment. Obviously, we have to abide by those standards. We respect that and we are relatively comfortable with it. We do not envisage that changing significantly once the great repeal bill comes in.

**Calum Duncan:** Again, I will not focus on any legislative solution. The important thing is that, in line with the Scottish Government and UK Government ambitions to be world leaders, and in line with the global management that we have talked about, we would like legislation to be strengthened and even to go beyond the current situation. I have touched on some things that we would not want to be lost and that are the best of the CFP, but there are also very good global standards from the world summit on sustainable development, the United Nations Convention on the Law of the Sea, OSPAR—the Convention for the Protection of the Marine Environment of the North-East Atlantic—and the North-East Atlantic Fisheries Commission. All those global drivers have to be taken into account.

The other key legal protections that are important are those that are delivered by directives such as the marine strategy framework directive, which contributes to sustainable fisheries management, and the birds and habitats directives. Those offer world-leading protection for important marine areas for species and habitats. Whatever the constitutional legal outcome, it is absolutely key that all those protections are strengthened and improved in order to meet the ambitions of all four nations.

**Stewart Stevenson:** I have a couple of fairly brief points. On salmon farming, given that Norway has very little tidal rise and fall, the environmental opportunity for the tide to disperse waste material from farming is much less in Norway than it is in Scotland. I make no comment about that, apart from saying that a different regulatory regime is clearly needed, simply because of that physical difference in the locations, and that is but one example of the differences. Therefore, I do not think that the same regulatory regime would work in the two jurisdictions.

I will move on to the real reason why I wanted to ask a question. Looking at domestic policy following the great repeal bill, we must not overlook the fact that we also have to address the

issue of domestic practice. I am specifically concerned that the way in which we run enforcement will have to be different. We might need another fishery protection vessel for our enforcement response. I do not know the answer to that. I just say that, in the debate, we have to address that issue. It is not just about changing the law; it is about changing what we do as well. Our two fishery protection vessels are spread pretty thinly. If there are more of our vessels out there and we have a different enforcement regime, we will need to address that. I have no answers on that; only a question.

**The Convener:** Yes, although perhaps the technology that is coming on stream will make that easier.

**Alistair Sinclair:** I am representing creel and dive fishing operations around the coastline of Scotland. On the west coast in particular, where many rural communities rely on their catches to provide them with benefits that flow through the community, our biggest concern is not really Europe, because we have exclusive access out to 6 miles and most of our membership works within that 6-mile area.

Currently, the biggest darkness on our doorstep is the salmon farming industry. It is using copious amounts of chemical pollutants to treat sea lice. Those chemicals are responsible for reducing crustaceans' ability to form shells. We must seek guarantees from the Scottish Salmon Producers Organisation that the industry will clean up its act.

**The Convener:** I want to try to defuse the situation. I understand your concerns, and that both sides have concerns. Perhaps we can look at the issue beyond our discussions on Brexit and the EU—Scotland needs to do that—but I take your point.

**Mike Rumbles:** I want to put a point to Scott Landsburgh about regulatory regimes. Contrary to the view that was expressed by Stewart Stevenson, I imagine—correct me if I am wrong—that when we leave the European Union your exports will need to have the same regulatory standards to which the rest of the European Union operates in order to keep, or perhaps increase, the market share.

**Scott Landsburgh:** I was trying to make the point that although the overarching environmental regulatory framework means that we operate under similar regimes, the interpretation is different. SEPA interprets the framework differently from how the authorities in Norway interpret it. Stewart Stevenson was right in saying that there is less tidal exchange off the Norwegian coast, but Norway has a much deeper coastline than we have, which is to its advantage in terms of sedimentary control.

We are not comparing apples with apples; rather, we are comparing apples with oranges when it comes to the different environment under which we operate. Having said that, the overarching environmental regulatory framework comes from the European Union and—

**Mike Rumbles:** And the standards are similar.

**Scott Landsburgh:** Yes. Calum Duncan mentioned world-class standards. We want to be world class. We export to 65 countries around the world. We could not do that if our production standards were not world class.

**The Convener:** I wonder whether Michael Bates wants to respond on keeping the standards the same as they are in Europe. I am sorry—I am rather bouncing him into answering, so perhaps Peter Chapman could come in first.

**Peter Chapman:** At the moment, the industry is struggling with the landing obligation issue. That falls into this theme, too. No one wants to see good fish go over the side of boats, but there are issues tied in with quota, choke species and all that stuff. If we are to design a new regime post-Brexit, I wonder how that issue could be framed more suitably to allow our fishing community to live with it.

**The Convener:** Peter, you will not enjoy me saying this, but I will hold that aspect until we discuss theme 5, under which we will ask the panellists what elements of EU policy they would like to see go. Throwing dead fish over the side of boats has been a difficult issue. I want to develop that under theme 5, and I will bring you in with the same question.

Does Michael Bates have any comment on keeping the integration going or on produce going to Europe?

**Michael Bates:** We are of similar mind to the salmon industry. Our standards need to be maintained because of our successful export industry. We have many standards within the country, including safe and local supplier approval—SALSA—and the British Retail Consortium. Those standards are recognised throughout Europe. Furthermore, a lot of people in Europe are asking for suppliers to have those standards in place.

We will continue with our standards and, if possible, we will welcome any changes to them. We are already meeting a lot of what is in place; we do not have any compliance issues. Our issue is that interpretation of the standards is different between Europe and here. However, we interpret the standards in the way that our country wants to interpret them, and people in Europe meet the standards that are required abroad. We are

successful in exporting our fish because of how we handle and look after it.

**John Finnie:** I want to pick up something that Mr Sinclair mentioned, although I am aware that you wanted to move on from the issue, convener. With the great repeal bill, there is the potential to replace the regulatory regime. Does Mr Sinclair see an opportunity with the bill to put in place more robust laws? A lot of people share the concerns that he has articulated.

**Alistair Sinclair:** I think that we have to do that, because things are now appearing in the press about the questionable behaviour of SEPA and others. The communities from where our fishermen operate are seeing, for example, applications for fish farms to be placed in marine protected areas. That makes a nonsense of having MPAs, and they do not want to see MPAs spoiled in such a manner. There is not only anecdotal evidence but genuine proof that some of the chemicals that salmon farmers have used in the past are detrimental to the sea floor. Anything that is on the sea floor is going to be affected by chemicals, which in turn will affect the guys who are out there fishing for crustaceans and so on. We have enough problems with microbeads and so on without any problems that we might get from the salmon farming industry.

**The Convener:** Before I bring in Scott Landsburgh to respond to that, I will bring in Calum Duncan.

**Calum Duncan:** I have a small point to make in response to John Finnie's question. I take the point that fisheries and MPA compliance might come under a future theme. There is a commitment in the programme for government to an inshore fishing bill. It has still to be decided whether "inshore" refers to a limit of 6 miles, 12 miles or what have you, so it might overlap with the CFP or CFP2. However, regardless of how we in Scotland and across the UK choose to manage fishing, particularly in offshore waters, we cannot let the opportunity to improve inshore management through an inshore fishing bill be lost. It seems to me that inshore fishing has been an overlooked, Cinderella area in terms of sustainability. We therefore welcome the introduction of an inshore fishing bill.

**The Convener:** I will let Scott Landsburgh have a final comment before we move to the next issue.

**Scott Landsburgh:** I take John Finnie's point that we are here to talk about the great repeal bill and then other aspects of Brexit. However, when I got here this morning I did not expect the salmon farming industry to be attacked. I think that some of the references to recent media comments are potentially inflammatory, because I feel that some of what has been written is suggesting that we are

hiding something. All of the data that has come out in the media recently has been published and is in the public domain, and we are complying with SEPA regulations. If people want the regulations changed, that is fair enough. We can go through a proper lobbying process and have a discussion about it, but we should not hang salmon farming out to dry in the court of public opinion, which is being hijacked by campaigners.

**The Convener:** Scott, I do not think that salmon farming is being attacked. The theme that we are talking about is interesting because we are exploring whether it is possible to untangle legislation. I think that the committee is hearing that there should be no reining back on the standards that are being set by Europe and that there is an opportunity to move the standards forward. That is my understanding of what has been said. Certainly, what we have heard from the SFF is that, with negotiation, it is not beyond the wit of man to make the process work. That is where I would like to leave this issue. However, I urge people to accept that what we are trying to do is to find a way forward and to improve everything that we can—that is the important point.

When I stopped Rhoda Grant earlier, we were talking about access to UK waters and quotas. Rhoda, do you want to rephrase your question now to ask about what will happen and whether there will be a free-for-all?

**Rhoda Grant:** My question was slightly in the direction of our first theme because it was about what we would want to retain from the CFP, what freedoms we would get from coming out of the CFP and how we would police that. It was about how much is impacted by the CFP and how much is not.

**The Convener:** Bertie Armstrong can respond to that. I ask everyone to think about the issue of access to the waters, not only those from nought to 12 miles but those from 12 miles to 200 miles, because I think that that is important. I will try to get everyone in who wants to comment. Bertie Armstrong will start and I will keep my eyes open for others wanting to come in after him. I see that Michael Bates and Stewart Stevenson want to do so.

10:45

**Bertie Armstrong:** Rhoda Grant has put her finger on the centre of the whole matter. On Brexit, governance of the exclusive economic zone will change radically and wildly from our present shared access, which we have been dismissing as common grazing, to the model that is already adopted around the world for coastal states—using that term with the specific meaning that those states have the rights and responsibilities.

That is the big bit, so the question about access is completely relevant. The answer is that access to those waters is in the gift of the coastal state; as is the case for Norway, Iceland and the Faroes, it is up to the coastal state to decide who comes in.

The setting of opportunity is central. How much fish can be caught, where and by whom is the centre of sustainability—it either works or it does not. Something that did not quite come out in the seminar that some of you attended this morning was that there is already a template for that—the coastal states—in which the relevant coastal states with fish in their EEZs get together and thrash out how much of what can be caught and where. It is a well-trodden path, and it is much less politicised than the common fisheries policy, because there is a cage in the common fisheries policy with all the EU fishing nations in it, and they try to influence what the individual negotiator will then do in the coastal states process.

The coastal states process is much more direct. Norway negotiates simply on its own behalf—it has a seat at the top table, to use a phrase that you have heard before. That would be us, and who was in that seat would depend on the species. It would be one set of people, typically Marine Scotland, if we were talking about mackerel or herring—the grand migratory species. There is no coastal state arrangement for channel cod yet, but one would have to be made, and I imagine that Department for Environment, Food and Rural Affairs officials would be in the seat for that species, and we would not care as long as no Scottish fish were swapped for channel cod—that is another story.

There is therefore a process out there by which the principle of sovereignty—coastal state rights and responsibilities—can be upheld and we will, at last, be able to negotiate for the advantage of the coastal state in the same way that everybody else does.

**Mike Rumbles:** I have a comment on the common fisheries policy and international law. Despite having looked into the matter for years, it came as a surprise to me at the seminar this morning to be told that, within the Scottish part of the UK's zone, one quarter of the fish in both quantity and value is fished by EU states other than the UK and one quarter is fished by non-EU states. I was under the impression that, if we came out of the EU, we would be in charge of our own affairs. Have I interpreted correctly from the seminar that there are other obligations that we have to adhere to under international law? Is it a fallacy that, when we come out of the EU, all the EU fishing capacity will be freed up for British and Scottish vessels? That is the key issue, as far as I can see.

**The Convener:** I will let Bertie Armstrong come in, but briefly, because I would like to bring in Professor Churchill and, in due course, Calum Duncan.

**Bertie Armstrong:** Professor Churchill will without a doubt explain the matter lucidly, but the answer is that we would be in charge. Let us use Norway as an example. At the end of the EU-Norway negotiations, an amount of fish is given to Norway in exchange for other fish. Our problem in Scotland is that we are a big net contributor to that swap, to the tune of 110,000 tons of blue whiting that Norway gratefully receives and catches. A load of stuff comes back, but none of it to Scotland—most of it goes elsewhere. That inequity and disadvantage would be fixed at a stroke. It might still be the case that 25 per cent of the fish taken from our waters will be in non-EU hands, but we would get a much better deal than we presently get. The central, essential point is that sovereignty and control would fall to the coastal state and we could make arrangements on that basis, so the very short answer is that we would be in charge.

**The Convener:** The short answer? [*Laughter.*]

**Professor Churchill:** I would like to add one or two little amplifications and qualifications to what Bertie Armstrong has said. The basic starting position in international law is that a coastal state has sovereign rights over the living resources of its exclusive economic zone. The coastal state is not obliged to admit any other state to fish for those resources unless there is a surplus. In other words, if the allowable catch is greater than the fish-catching capacity of the coastal state, the law of the sea convention says that other states must be given access to the surplus, but even after that the coastal state has complete discretion as to which states are given access, with the exception of landlocked and geographically disadvantaged states, although that is not relevant in the UK context.

However, there are two or three things that mean that that strict principle will not necessarily apply. The first is that most of the stocks in the North Sea are shared stocks. That is to say that, at the moment, they are shared between the EU and Norway. Post-Brexit, we would need some trilateral arrangement for the EU, the UK and Norway, and a lot depends on negotiation about allocation and the swaps that Bertie Armstrong mentioned.

I would like to say one thing about allocation. A few weeks ago, *The Guardian* published what was described as a leaked paper from the European Parliament, in which the European Parliament said that the principle of relative stability, which is what applies as the allocation key at the moment, should continue post-Brexit. That seems to me to

be unacceptable. The EU has said strongly in recent weeks that the UK, if it comes out of the EU, cannot enjoy the benefits of membership. That principle should cut both ways, so that EU fishing states cannot enjoy the benefits that they have at the moment.

The basic principle of allocation in the North Sea between Norway and the EU is a principle known as zonal attachment, which means that it is the proportion of mature fish in each party's zone that determines the division of the quota, broadly speaking. We should strongly hold out for that principle and resist any attempt to continue relative stability.

I know that I have gone on at some length, but I have one other brief point that I think should be borne in mind. When negotiating trade arrangements with other countries in the past, the EU has had a trade-off between greater access to the EU market and greater access for EU vessels to fishing grounds. That happened with Norway, where there is no free trade in fish, in principle, under the European Economic Area, but Norway was given greater access to the EU market. In return, Norway had to give the EU greater access for EU vessels to its waters. We need to be aware that the EU may try to play that card in the negotiations that will take place.

**The Convener:** The point was made at the briefing this morning that giving access does not necessarily mean that you will catch more fish; it means that you will be given access to the areas where there are fish.

**Stewart Stevenson:** Robin Churchill has helpfully answered many of the questions that I was going to ask, but I have one little residual question that I am not sure is covered by any other heading in our proposed scheme of discussion. Would it be perfectly legal for us to abolish the existing quotas and replace them? I hasten to add, before a price is put on my head, that I am not proposing that, but I wonder whether it would be legal for us to do that and to replace the quota system with a different way of controlling, managing and allocating access rights. That is a question for Robin Churchill.

**The Convener:** Professor Churchill, do you want to put yourself in the firing line on quotas?

**Professor Churchill:** The UK will be responsible for the management of the 200-mile zone. If it wanted to operate with total allowable catches and quotas, it could do that, but if it wanted to replace that system with a form of effort limitation—for example, saying that so many vessels could fish in certain areas at certain times—that would also be a possibility. We would have a free choice in the type of management measure that we adopted.

**The Convener:** Does Calum Duncan want to come in on that? I am trying to work my way round the table.

**Calum Duncan:** Rhoda Grant asked about what we need to retain and what our freedoms are. To consolidate what I said earlier, I would like to retain a commitment to an ecosystems-based approach to management, including appropriate measures to address discards. A precautionary approach needs to be hardwired into that. I would like to retain deep-sea regulations and the principles enshrined in article 17 of the common fisheries policy—which relates to the point about effective monitoring and management—with transparent objectives for environmental, social and economic criteria and integration with the overarching marine strategy framework directive and the habitats and birds directives. I would also like us to retain a regionalised ecosystems approach to management, because, as I have mentioned, there are lots of straddling stocks and collaborations will be necessary.

We have the freedom to improve. It is the EU that is party to the North-East Atlantic Fisheries Commission, the United Nations convention on the law of the sea and the UN fish stocks agreement. However, in the absence of the CFP, it is not a free-for-all; there needs to be a sensible four-nation approach to negotiating with all those international frameworks to get sustainable, ecosystems-based outcomes. A big part of the improvement that is needed is effective spatial measures not just in relation to MPAs and special areas of conservation but in relation to the protection of critical fish habitats—for example, breeding and spawning grounds. The marine atlas highlights concerns about the health of the wider ecosystem. We should not focus just on stocks, because there are a lot of concerns about wider sea bed and ecosystem health that an improvement in the spatial management of fishing—in addition to improved stock management and other measures—could help to address. Improved management could come about through full documentation, which is an issue that we can perhaps discuss later.

**The Convener:** I fear that your shopping basket of things that you are asking for may be overflowing.

I ask Bertie Armstrong to comment on what Calum Duncan has just said. After that, I would like to return to creeling. Perhaps Alistair Sinclair could tell us whether he sees any threats to creeling in Scottish waters from boats from other countries.

**Bertie Armstrong:** I will address Calum Duncan's shopping list and Robin Churchill's small diversion into potential management measures. There is no reason on God's earth why all those

things cannot be embraced with alacrity. The good bits of the CFP focus on sustainability and the freedom to use any method, although I have to say that an effort management-only system is untried and we are unlikely to go straight to that. All those things are, however, entirely possible. Once we are out of the cage of the CFP, we can do all of them and more. We start from a good position, because we are entirely compliant with everything right now, and we can move forward.

**The Convener:** Alistair, do you see any threats to creelers from leaving Europe?

**Alistair Sinclair:** I really do not think so. It would be too far for people to travel to make it viable. I do not think that we have any great concerns about that. Vessels come from Guernsey to take lobster and brown crab from the stock, but they do not have any real impact on local fisheries. They might have an impact in discrete areas, but the areas where those vessels fish are generally further out to sea, where the smaller boats cannot fish.

**The Convener:** If everyone is happy with that, I would like us to move on to the next theme, which is access to funding, expertise, labour and resources. John Finnie will lead off with a question on that.

**John Finnie:** My question is on the European maritime and fisheries fund. The sum of money that comes to Scotland to support sustainable fishing and help coastal communities is 44 per cent of the UK's share of the fund and may be particularly important for the fish processing sector. Will the UK and Scotland lose access to funding, expertise—in particular, scientific expertise—and resources that are particularly important for fisheries and aquaculture?

**The Convener:** That is a very good question. I would like to hear from Michael Bates and Scott Landsburgh on that, as it will affect their industries, too. Let us start with Bertie Armstrong and work our way around the table.

11:00

**Bertie Armstrong:** For the catching sector, it is quite simple. The amount of funding that we receive from the European maritime and fisheries fund is approximately 1 per cent of first sale and landing. We are not an industry that depends on subsidies; in fact, it would be a distortion if we were. When there is a fund available, we grab it with some enthusiasm. However, if a fund is not there, it is not going to kill us. We do not wish to develop into an industry that depends on funding.

The final short point to make is about the UK as a net funder. I know that life is more complicated than this but, all things being equal, if we pay in

more than we get back, surely it is not beyond the wit of man for us to support everything that is currently supported by funds, if those arguments stand up by themselves.

**The Convener:** I think that part of John Finnie's question was to do with labour.

**John Finnie:** I had not come on to that, but an important element of the present situation is the free movement of labour. That is very important to people and we would like to hear about the implications of any alteration to that situation.

**Bertie Armstrong:** Michael Bates will speak for the processing industry but, without a doubt, there is some EU labour in the catching sector, although not a lot. I am seized with a thought: what country would not supply itself with the labour that it required? There is a difference between the free movement of all Europeans—as one of the four freedoms of the single market—and a country such as the UK allowing in people to do jobs that it wants people to do. I cannot see that we are talking about an unjumpable hurdle.

**The Convener:** Before we move on, Mairi Evans indicated that she wanted to add something.

**Mairi Evans:** My question relates to the free movement of labour and exactly how important that is. I take Bertie Armstrong's point that he does not see it as a hurdle. However, in other debates on other areas, we have talked about the point that we have a labour force here and that a section of that could be working. That is fair enough, but it depends where you are in the country, as that labour force is not concentrated in one place. I imagine that the issue of the free movement of people will have a big impact on the processing side.

**Michael Bates:** Our sector relies heavily on nationals from other EU countries and we could not survive without them—there is no question about that. Our own workforce no longer sees the fish processing sector as a viable, lucrative area to work in. Since the oil industry came on board, pushing up wages and pinching workers, that became a more attractive industry to work in. We would certainly like all foreign workers—for want of a better description—who are currently working in this country to be allowed to stay, as we rely on them quite heavily. Without being able to offer huge wages to compete with other industries, I cannot see how we will be able to change the perception of youngsters in such a way that they see our industry as a career industry and as worth coming into. We really need those people to stay here, and we need other people to be able to come here and add to our sector as it grows. There are a lot of businesses that are keen to expand, but the uncertainty of Brexit is holding

back investment. Once the situation becomes clearer and everybody knows what we are faced with and how we will progress, there will be a lot of companies that are ready to invest in the future. However, they will need staff.

**Mairi Evans:** Do you have a figure for, or a percentage of, how much of the processing workforce is made up of EU migrants?

**Michael Bates:** It is difficult to give you a figure, but in most of the companies that I know of in the north-east, which are predominately in Aberdeen and Peterhead, as little as 20 per cent of staff are local people. There is a huge majority of EU nationals working in our industry. The figure is certainly well over 60 per cent.

**Stewart Stevenson:** I have a wee financial question. With the current limit of €30,000-worth of support over three years, the processing industry, like the catching industry, is not a big recipient of European funds. The European maritime and fisheries fund is, in essence, an infrastructure fund that supports communities and, I would suggest, it is usefully supporting harbours in their wider exploitation of opportunities, not just in fishing. I hope that I am correct in saying that the processing industry is similarly pretty detached from EU financial support.

**Michael Bates:** Yes, unfortunately you are correct. We are very detached from it.

**The Convener:** Scott Lansburgh, will you tell us a little bit about your industry?

**Scott Landsburgh:** I will reiterate what Stewart Stevenson said. The situation for aquaculture is similar to what Bertie Armstrong and Michael Bates described. We do not enjoy a lot of EMFF support. We apply for match funding for one or two things, but that runs not to tens of millions of pounds but to maybe £1 million or £2 million a year. That is good—it is not to be sniffed at—but it is not significant or crucial to the industry's future wellbeing. I would not say that it is a red-line issue for us. Nevertheless, such support is always helpful.

We have a lot of higher education funding going into innovation centres, which the Scottish Government established a few years ago. We are looking forward to some dividends from that in the near future, and I think that we will see some significant change in the management of the welfare of our fish through that—that was the main purpose of their establishment. It will take time, but we are definitely making progress. That should help with one or two frustrations with regard to salmon farming that we have heard about today.

As you can imagine, farmed salmon is the one fish that is guaranteed to go into processing plants every day: that point was made by a delegate at a

Scottish National Party conference a couple years ago. It is the fish that arrives every day in our processing plant. We estimate that in our primary and secondary production for salmon about 8,000 people from the EU are involved in processing.

**The Convener:** What proportion is that of your overall workforce?

**Scott Landsburgh:** I cannot speak for the processing side, but farming is not a labour-intensive industry: we employ about 2,500 people.

**The Convener:** What percentage of those 2,500 people are EU migrants?

**Scott Landsburgh:** It is very small: about 10 per cent.

**John Finnie:** The witnesses were perhaps going to come to this, but I also asked about the potential loss of scientific expertise. A lot of academia in this area shares expertise—we are all dealing with the same water—and we have heard about a loss of shared expertise in the forestry industry. Does the panel have any concerns about a loss of scientific expertise?

**The Convener:** Calum Duncan, will there be a loss of scientific expertise?

**Calum Duncan:** I am not close to the funding structures, but I can speak to the principle that there needs to be adequate resources to support sound science. Ecosystem-based management of fisheries stocks and wider management decisions, including those on aquaculture, need to be based on good science. In addition, the precautionary principle applies when data is lacking.

I would like to say something about incentives in relation to the fleet. Whatever the EMFF equivalence is, it is important that it is allocated according to need and that the incentives encourage sustainable practice. In that way, we can get a race to the top and encourage improved gear selectivity and improved spatial and temporal management. Again, I am sure that everybody around the table can agree on the need for those things. We need financial incentives for the industry to encourage the sustainable practice that we want to see. That makes good business sense as well, because it means that people have a more sustainable product that has higher value and conceivably, or ideally, lower environmental impact. I am sure that that is the sort of vision that Scotland would want to project to the market domestically and globally. Resources are also important for monitoring and compliance.

**The Convener:** I am assuming that, if panel members are not looking at me, they definitely do not want to come in and I will have to force them to come in. I think that Scott Landsburgh wants to come back in, and then I would like to ask Alistair Sinclair to say a wee bit about resources and

labour from the EU as far as the creel fishermen are concerned.

**Scott Landsburgh:** I do not have the figures, but John Finnie's question is a good one. We need to be aware that a lot of higher education support comes from the EMFF in particular. In our industry, I am aware that the institute of aquaculture at the University of Stirling, which is regarded as a world-class education and research establishment in the world of aquaculture, has some serious concerns about reduced funding.

**The Convener:** Alistair Sinclair, what is the position for creel fishermen? Is there a contribution in terms of grants from the EU, or labour from the EU?

**Alistair Sinclair:** There is no great appetite to go out and seek funding from the EMFF because the creel industry, like the mobile industry, is a here-and-now business. The boats can be repaired and sorted in a couple of days and—bang—they are off to sea again. It is very difficult to get creel fishermen to do form filling. It is hard enough to get them to fill in their landing sheets on a weekly basis, never mind a long, convoluted form for EMFF funding.

**The Convener:** Bertie Armstrong, do you want to come back in on any of those points?

**Bertie Armstrong:** Scientific support is exceedingly important. A lot of data leaves us for the International Council for the Exploration of the Sea, which is the recognised international body, and there is great assistance from the EU for that data to be provided. That needs to be replaced. There is money to do that, but that needs to be thought of. We cannot possibly have a degradation of stock assessments as a result of anything that we do.

**The Convener:** John, do you want to follow up on any of that?

**John Finnie:** No. That is helpful.

**The Convener:** If everyone is happy, we will move on to the next theme, which is about which elements of EU policy members of the panel are keen to see go. Jamie Greene has a specific question on that. Earlier, Calum Duncan was adept at filling up a shopping basket. It will help the committee if you can focus on a couple of issues, if that is appropriate given what Jamie asks you.

**Jamie Greene:** I think that you have just asked the question for me, convener.

**The Convener:** Sorry. That is me put in my place. You will never get another question, Jamie.

**Jamie Greene:** Just for the sake of being on camera, I will say a few words.

I have been quietly listening in the corner, and the conversation has been fascinating. In general, there seems to be a consensus that elements of the CFP have been positive and beneficial—it is not all doom and gloom. I appreciate that there have been and are many complexities and problems with it, but it is nice to hear that there is consensus on the general objectives around sustainability and ensuring that we have strong industries that also take into account the needs of the coastal communities that participate in them.

On the other side, however, I wonder whether there is any consensus on elements of the CFP that you will be happy to see the back of. Robin Churchill mentioned relative stability, and we have touched on landing obligations, quotas, technical regulations and so on. I would like to hear any views that you have on opportunities that are presented in a post-CFP, post-EU era.

**The Convener:** Thank you for making the question your own, Jamie.

**Professor Churchill:** A lot of things will go simply through the UK leaving the EU and therefore leaving the common fisheries policy, and relative stability will be one of those things. Historical access rights to the 12-mile zone, which we have not mentioned previously, will go, I am sure.

You have rather caught me on the hop on that so I will leave it to others who have stronger views.

11:15

**Bertie Armstrong:** You might have heard the phrase “sea of opportunity”, which defines the opportunities that come from leaving the CFP. Robin Churchill put his finger on it. The move away from relative stability and the gaining of sovereignty and governance in our waters will produce a gigantic game-changing opportunity for the seafood industry of Scotland and indeed of the UK. We will be able to behave on the world stage in the same sort of way that, for example, Norway does. There are a number of opportunities. All other things flow from the increased economic volume—if activity is increased, jobs can be made more attractive, we would hope, and our reputation could grow. There will be a stream of opportunity from additional economic activity that will fall our way, unless it is deliberately traded away or handled badly.

**The Convener:** Mairi Evans, do you have a follow-up question?

**Mairi Evans:** Yes. We had some questions about quota hopping at this morning's seminar and it was developing into an interesting topic. I want to hear more from Bertie Armstrong in particular

about quota hopping and how much of an issue it is in Scotland.

**Bertie Armstrong:** It certainly exists. As Wendy Kenyon said at this morning's seminar, it is not actually to do with fishing management; it is to do with the right of establishment of a brass plate and the purchasing of companies. Land Rover is beneficially owned elsewhere, for example.

Should the Governments of the land decide to change that situation, there would be an opportunity to do so. Norway does it differently, as I said at the seminar. It is not, however, the central question. We are not having our industries bought over in Scotland but it is something that we could guard against, recognising the underlying principle—which everyone here seems to support and which other countries seem to support—that the national resource of fish is indeed a national resource and it is something that we do not completely privatise. It is not like buying steel for making cars. It is different because it is a national resource. We can strengthen that or loosen it post Brexit, as desired. A unique opportunity exists post Brexit to do that in whatever way the Government decides.

**The Convener:** I have a queue of people who want to come in. Stewart Stevenson is first.

**Stewart Stevenson:** It is a relatively small point that goes back to the point that I made earlier about decision making and policy making. When the Norwegians sit down to negotiate with the EU, the fishermen are part of the delegation. In the EU, it is the politicians and officials who negotiate, not the fishermen. I wonder whether there might be an opportunity to have as part of the negotiating team the people who are directly affected by the decisions and can inform officials and particularly politicians, who are rarely experts in anything—even if we come to Parliament as an expert, our expertise atrophies. Looking at EU policy, I wonder whether that is a key area to which we can draw more people who have relevant knowledge and experience to the table in order to get better outcomes.

**The Convener:** I am going to bring John Mason in because there is a two-fold question here.

**John Mason:** Bertie Armstrong paints a picture of us taking all the powers back on board, but the assumption is that the UK Government will say that it wants to get a special deal for the financial sector in London so it will give away part of the fishing powers, because fishing does not really matter to the UK. Are there bits of EU policy that Bertie Armstrong would want to keep and bits that he accepts that the UK will trade away?

**Bertie Armstrong:** There are two separate questions there. On the potential for the UK to trade fishing away, we will react as savagely as

we can manage to anybody—any Government of any colour—trading away what we regard as a once-in-a-generation opportunity to take charge of our national resource. That is the central point. I hope that nobody is going to sell us anywhere.

**The Convener:** We have to be careful about talking about suggestions that are not facts. We must take cognizance of the fact that there is a once-in-a-generation opportunity—I think that that was Bertie Armstrong's expression, although I am sure that I have heard it before—to make a change, and you will not sacrifice that for anyone.

Perhaps we could leave that there. There was a question about the people at the negotiating table.

**Bertie Armstrong:** We have just been to Norway. In fact, I think that officials from the Department for Environment, Food and Rural Affairs and Marine Scotland are with officials in Norway as we speak. Stewart Stevenson describes the situation exactly. It is not that the lunatics are in charge of the asylum; it is that the relevant subject-matter experts are talking to the right decision makers. The Norwegians warned us that there is rough and tumble in the room when that goes on but it would be, if you like, our rough and tumble. We would not be one of eight people who are trying to influence our politician who then tries to influence a negotiator who decides what he is going to do in the first place, so the relevant expertise is much closer to the decision making. We will push as hard as we can for the relevant experts, including scientists, to be part of the decision-making process.

**The Convener:** I am happy to let Calum Duncan in with a small shopping basket.

**Calum Duncan:** I do not have a reverse shopping basket of things to remove from the CFP but I will comment on some of the points that Bertie Armstrong made—not to disagree with them but to elaborate on them quickly.

I absolutely support the idea that stocks are a national resource that we cannot privatise. That is exemplified by mackerel, which spawn off Ireland and are fished off Scotland.

We heard about Norway. I also draw the committee's attention to New Zealand and British Columbia in Canada, which are successfully using remote electronic monitoring. That helps to improve fisheries management and could help on the discards ban, in relation to which there is some grumbling about the CFP. I can draw the committee's attention to a good report by WWF on socially just improvements that could be made in monitoring activities at sea and catch.

**The Convener:** You are bringing more rather than taking away so I will move on and invite Peter Chapman to make a point.

**Peter Chapman:** Is there a better way that we could manage the landing obligation post-Brexit? We all want this to work, but it has to be sensible and work within the quota system as it is just now, especially given the worries about choke species.

**The Convener:** We will deal with that briefly because we are going to come on to catching and processing.

**Bertie Armstrong:** I will answer with absolute brevity.

The problem with the CFP landing obligation is that it was politically driven, without proper regard being had to its practical application. It is a bit like banning road accidents, sitting back and saying that it is all done. How would that work?

The Norwegians operate a discards ban that is less bad than the UK one, and we might take that as a model. It must be done—we must reduce discards as far as physically possible—but the current EU model is preposterously unworkable.

**Alistair Sinclair:** If we can retain anything from the CFP, we would like Marine Scotland, which would probably be in charge of this area, to consider article 17, which clearly states:

“Member States shall endeavour to provide incentives to fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage.”

We have to have that in whatever we create.

**The Convener:** That is interesting. I think that Calum Duncan—and, from what I have heard, fishermen—would support you on that.

The next theme is co-ordination. I will say no more about that in case I steal Richard Lyle's thunder.

**Richard Lyle:** Thank you, convener.

Most of the questions that I was going to ask have already been answered—or answers have been suggested. I am old enough to remember the cod wars and the British navy facing other countries. With the greatest respect, some of us think that the Scottish fishing industry has had a bad deal for years and that it will still get a bad deal, whatever comes out of Brexit.

I am interested in a comment that Professor Churchill made about just retaining all fishing areas for ourselves as a coastal state. Should we, do we have to, or do we want to co-ordinate domestic fishing policy with neighbours' policies, or do we want to take it back? I am sorry that I could not make the Brexit and fisheries seminar this morning, but I know from committee meetings in the previous session that Scottish quotas have been bought by foreign boats. Brexit would do away with that. Do we want to co-ordinate with our neighbours, or do we want to keep all our fish,

wherever they were spawned, for the Scottish fishing industry and Scottish fishermen?

**Professor Churchill:** The short answer is that, if we did not co-ordinate with the EU and Norway, there would be a real risk that it would be a matter of every state for itself, that there would be overfishing, and that each state would just take what it regarded as its legitimate share. Adding the catches together would probably come to more than 100 per cent of what scientists recommend as the total catch.

**Bertie Armstrong:** That is absolutely correct. It simply will not be possible to take volume of stocks for all stocks. Other countries take their volume of stocks under relative stability in their own waters. There is a real and present danger, and of course we want to co-ordinate.

**John Finnie:** Would the other witnesses like to pick up on Alistair Sinclair's point about sustainable issues and the retention of article 17?

**The Convener:** The witnesses can build that into their answers.

**Richard Lyle:** I have a question for Mr Armstrong. How much has the UK Government included the Scottish Fishermen's Federation, or fishermen in general, whichever part of the UK they come from, in considering what will happen after Brexit? I understand that we will all have to negotiate. We cannot go back to the cod wars; the navy does not have the ships now to go up and down the English Channel, the North Sea or whatever. To what extent is the UK Government including the Scottish Fishermen's Federation or—dare I say it—the National Federation of Fishermen's Organisations in the negotiations?

**Bertie Armstrong:** We have had meetings with David Jones's department and two meetings with Andrea Leadsom. We will meet her again next week with officials in DEFRA in the south. We have had meetings ad nauseam with officials in the north, MSPs—who bore even themselves—and the cabinet secretary. We are talking to everyone.

We are not getting hard assurances from everybody about outcomes, but we are not being ignored. As I said, we will react as savagely as we possibly can if this opportunity is not taken.

The figures are stark. There is a zonal attachment paper on the proportion of fish that live here and the proportion that are caught. To pick out one example, 88 per cent of the herring live in our waters, along the northern continental shelf—that is a general statistic—but we get just 15 per cent of the TAC. We would like that to change. The study lists 17 cases, taken from the official figures, where there is a grand long period of disadvantage that needs to be settled. Of course,

settling that should be a co-ordinated exercise, but there must be a robust approach to it. You do not leave the golf club and continue to pay the fees. To repeat a point that Robin Churchill made very well, it cuts both ways: if we have left the EU's control, we want some of that control back.

11:30

**The Convener:** I think that Calum Duncan wants to answer John Finnie's question on conservation.

**Calum Duncan:** I would have to be reminded of it—sorry.

**John Finnie:** It was on the issue that Alistair Sinclair raised when he was asked about what would be worthy of retention. He mentioned using sustainable methods and the low-carbon impacts. I had hoped to hear from Mr Armstrong on that.

**The Convener:** It would be perfect if Bertie Armstrong would answer that. Calum Duncan will have chance to gather his thoughts and come in with a short answer.

**Bertie Armstrong:** Gear development, using less fuel, having less impact and catching less of what you do not want to catch—all of that is a moving picture. We apply a lot of time, effort and money to those issues, and I would envisage a redoubling of effort under our own management, rather than a cessation.

**The Convener:** Calum Duncan will come in briefly. We will then move on to the next theme.

**Calum Duncan:** As I said, many things are worth retaining, and the approach in articles 4 and 17 of the CFP regulation provide for “ecosystem-based” management and “transparent and objective criteria”, as well as covering the deep-sea system regime.

To respond to Richard Lyle's point, we would support an eco-region management approach. We need to collaborate. Although they are not perfect, the North Sea Advisory Council and the North Western Waters Advisory Council are a good start. We need to collaborate and, for the reasons that Robin Churchill mentioned, we need to preserve straddling stocks.

**The Convener:** Perhaps we can now move on to the next theme, which is to do with the product.

**Rhoda Grant:** This moves us away from the common fisheries policy and into trade. Much of our caught fish is sold to the EU, as is much of our processed fish. What impact will Brexit have on that? What outcome do people want? It is fine to have all the opportunity to fish, but if we do not have somewhere to sell it, there is a huge difficulty for the industry. How do we overcome that, and how do we negotiate?

**Michael Bates:** Where else can the EU get its fish from? We currently export quite a lot of our product to the EU because the EU needs it. If we have a greater share of the raw material, that means that there is a lesser share for EU vessels, which would increase the demand for our product. The EU is catching less, but people are still consuming the same levels, so they will require the product. We feel that export sales, and even domestic sales, will continue; if anything, they will increase.

We are not afraid of any changes to tariffs. We feel that they will be minimised because of EU demand for our product. People cannot get the product anywhere else. Where can the EU get fish from if not from our waters and our processors if access by EU vessels is reduced? I am not saying that their access will stop, but it will certainly reduce. The EU requires that product. We are quite confident that this is a good opportunity for the processing sector.

**Rhoda Grant:** If tariffs are in place, the cost increases. In basic supply and demand economics, how elastic is the demand? There must be a point at which tariffs would affect people's buying power. Is there a concern, or are you confident that, no matter what happens—within reason, and one imagines that it would be within reason—it will not impact on sales?

**Michael Bates:** You are again correct. There would of course be a limit but, because of the demand for the product, any increase in tariff would be as little as possible to avoid making the price of that raw material too high. Just because we have the product does not mean that we can demand any price for it, but demand is so high and strong—it is consistent throughout the year—that the level of increase would be minimal. People in the EU value and still want the product; they do not want to put a barrier in place to increase its cost. We feel that negotiations on tariff will be in our favour. There will be an increase, but it will be offset by the increase in demand for the product.

**The Convener:** A queue of people are waiting to come in. Alistair Sinclair has been waiting the longest. I will go in the order in which people revealed their questions.

**Alistair Sinclair:** I agree with much of what Michael Bates said. Demand far outstrips supply in our sector, and Michael's sector has probably the same situation. I cannot imagine Europe placing tariffs on the product that we have, which is second to none on the planet, for the sake of giving the UK a bloody nose. They cannot do that to our fishermen.

In my position as national co-ordinator for the Scottish Creel Fishermen's Federation, one of the most encouraging things over the past two years

has been receiving inquiries from as far away as China for the product that we sell. In recent times, China has developed a railway system that comes all the way to France. It takes seven weeks but, nevertheless, China developed that because it wants products from Europe. From Scotland, we have the tunnel now and we can get all the way to China. There are many benefits coming our way. It would be extremely foolish of Europe to give us a bloody nose.

**The Convener:** There may be some locals who will miss their shellfish if they all disappear.

**Scott Landsburgh:** We have considered the worst-case scenario for what has been described as a hard Brexit or clean Brexit—we know now from the Prime Minister's statement that the Government is looking for a clean Brexit. With World Trade Organization favoured nation status, we would incur a 2 per cent tariff on fresh salmon and a 13 per cent tariff on smoked salmon.

Putting those figures to one side, there have been significant fluctuations in market prices in the past 12 months. There has been huge variation and a huge price increase that has been beneficial to us. In 2015, Scottish salmon going into the European Union attained £3.92 a kilo; in 2016, it attained £5.74, which is a 46 per cent rise in our market price. In that background context, the tariff is negligible, whatever it happens to be.

Our biggest challenge is producing enough to meet the demand, no matter that we have a major competitor a few hundred miles away across the North Sea. I take on board Alistair Sinclair's point about safeguarding other species; that is something on which we spend inordinate amounts of money, and we are about to do a lot more to help that situation. That is our big challenge.

The challenge that I foresee in all of this is not about tariffs; it is about potential physical impediments to moving perishable goods quickly to market. We can get fresh Scottish salmon on a white linen tablecloth in Manhattan within 24 hours of harvest, and we can do that in the European Union as well. That is on account of the free physical movement of the fish, with no paper barriers or physical barriers at the marine ports or airports. That is the big challenge; it is not really the tariff.

**The Convener:** I feel eyes boring into me from all directions. I will try to get round everyone who wants to comment. Robin Churchill is next.

**Professor Churchill:** I understand perfectly the logic of what Michael Bates says, but I feel that EU practice is not entirely on his side. It looks as though what we will end up with post-Brexit is a free-trade agreement of some kind between the UK and the EU. Most free-trade agreements that the EU has concluded with other states do not

include free trade in fish or agricultural products. Even with Norway, tariffs are payable on imports of many fishery products from Norway into the EU, so I am not convinced that the EU will give us a good deal on that.

Scott Landsburgh's point about documentation is also important. If you export any kind of perishable goods to the EU, you have to comply with EU sanitary standards and you must have the documentation to show that you are complying. As far as future fish catching is concerned, there will have to be documentation showing that the EU's rules of origin are being complied with as well. From a trade point of view, a hard Brexit is a nightmare because, apart from the tariffs issue, it will increase enormously the amount of documentation required.

**Stewart Stevenson:** I had two points to make. One was about documentation, but that has now been covered, so I shall skip that. I also wanted to make a general point that, in tariff terms, fluctuation in currency is a much bigger influence on the amount of money that the industry can make, and that is currently the bigger threat and one that is more difficult to manage.

**Scott Landsburgh:** I agree with Stewart Stevenson, but even a 12 or 15 per cent currency movement against the euro would be only a quarter of the 46 per cent that I mentioned. The dynamics of the market are really the driver.

**The Convener:** I was going to come back to Scott Landsburgh in a minute. You have jumped the gun, but I will let you away with it on this occasion.

**Alistair Sinclair:** Robin Churchill alluded to documentation, and. The hoops that we might have to jump through could be another way of getting us.

**The Convener:** Documentation is proving a grave concern.

**Bertie Armstrong:** We must not imagine that the single market, or Europe, is the only market in the world. There may be 33 countries and 400 million people in Europe, but there are another 178 countries out there, with 7.5 billion people in them. When the Russian sanctions were applied and we lost the pelagic fish market, we were able in fairly short order to reset that fish to other markets, and it opened up a market in the far east that has been very good thus far, and a market in Africa for lower-quality and lower-priced fish. We should not forget that there is another world out there that will be open to us.

**Michael Bates:** I want to comment on something that Scott Landsburgh said. A lot of our members are keen to expand their business to take advantage of increased orders, but they are

holding back because of the uncertainty about what is going to happen. Once everybody knows what we are faced with and all the agreements have been reached, our sector is looking to move ahead and expand.

**Jamie Greene:** To go right back to the fundamental rationale behind tariffs, the whole point originally was to stop imported produce competing with locally produced products. Tariffs were intended to stabilise those markets. In the case of salmon, for example, the fish was being sold to countries that had neither the ability nor the desire to produce that product. I am glad to hear that Bertie Armstrong thinks that there is a worldwide demand for our products outside the EU single market.

I was intrigued by Scott Landsburgh's point that it would be not only tariffs but more logistical barriers that would prevent markets from flourishing. From a political point of view, it is worth bearing in mind that it is about not just contracts and financial tariffs, but physical logistics. Certainly, that is a point that I will take away from this meeting.

11:45

**The Convener:** Mr Landsburgh, you jumped the gun earlier, but do you want to go back to something that you were going to say earlier?

**Scott Landsburgh:** No, I am fine.

**The Convener:** Calum Duncan wants to come in.

**Calum Duncan:** It is just a quick point. I appreciate that this evidence session is mainly about export, but I take the opportunity to emphasise that there is the potential for shortening supply chains, keeping high-quality produce and growing the markets for those in Scotland and the UK in terms of opportunities and things to incentivise, irrespective of constitutional arrangements.

**John Finnie:** I support what Calum Duncan just said. There seems to be a bit of a contradiction between being sustainable and transporting food halfway round the world. I believe that it is about trying to maximise local production and consumption.

**Michael Bates:** I totally agree with Calum Duncan's point, which John Finnie has just backed up. There is an opportunity to reduce fish imports that could work in our favour, because that would in turn increase the demand for local fish throughout the country. It is ironic that we export 80 per cent of what we catch and that 80 per cent of the fish that we eat is imported. We have an ideal opportunity to try to redress the balance by minimising imports, which would be offset by the

increased availability of raw material from the catching sector and which the processing sector could handle. Those who cannot export, whether to Europe or further afield, would welcome the opportunity to increase sales within the UK, but that would also be welcomed by all sectors.

**Stewart Stevenson:** Can Michael Bates give the value of the two 80 per cents, if he has them?

**Michael Bates:** No, I do not—sorry.

**The Convener:** I will bring in Alistair Sinclair shortly, but we are coming to the end of the evidence session and I think that it is only fair to tell the people who have been kind enough to give us evidence that there are two questions coming their way, so they might want to gather their thoughts on them while Alistair Sinclair is giving his thoughts. The first question is a simple one: are there any other implications for your sectors that you have not had a chance to bring up during the evidence session? Secondly, what one thing do you think needs to be done now to prepare for leaving the EU? Those are our two concluding questions but, before we come to them, I will ask the committee members whether they have any further questions.

**Alistair Sinclair:** I want to return to the issue of supply chains and how far products travel. For the Scottish fish and chip shop of the year awards a couple of years ago, Seafish, the body responsible for looking after the interests of the fishermen who prosecute their fishing in the North Sea, went abroad to pick up the fish for the purposes of those awards.

**The Convener:** I will let Michael Bates come back in on that.

**Michael Bates:** Those fish and chip shop awards are sponsored by Norway.

**Alistair Sinclair:** But we could supply the fish.

**Michael Bates:** We could easily do that.

**The Convener:** The discussion could delve into areas that we would never get to the bottom of. However, I think that everyone round the table would agree that the fish produced in Scotland is excellent and that the fish caught by Scottish fishermen is excellent.

Before I ask each of those who have given evidence for their final thoughts, do members have any more questions for the witnesses?

**Mike Rumbles:** I asked Michael Russell, the minister for Brexit, in the chamber yesterday what the Scottish Government's policy was on full membership of the European Union. He said that the Scottish Government's aim is to have full membership of the European Union. There could be a scenario where we leave the European Union and, after a referendum, come back into the

European Union. Does anyone have any thoughts on that?

**The Convener:** I understand the question, but it might be best left hanging there, because it may open up a whole lot more issues.

**Richard Lyle:** Good try, Mike.

**John Finnie:** Good try.

**The Convener:** John Mason has a different question.

**John Mason:** If, as in Bertie Armstrong's perfect world, we see our catch increase hugely, would that be spread among more vessels and owners or would it make the existing small number of big ships a lot richer?

**Bertie Armstrong:** That is a very good question. We wrote an inshore paper as part of our suite of evidence on that whole issue. It would be perverse if we ended up with the present catches swelling, and that would not work. There is an opportunity to spread the largesse much further and we are committed to doing that.

**The Convener:** Okay—perfect. I am going to leave it there. Is there anything that the witnesses have not raised? What one thing needs to be done now to prepare for leaving the EU? We will start with Scott Landsburgh.

**Scott Landsburgh:** The one thing that the UK Government, as the negotiating Government, can do is to get early agreement on the security of EU migrants. There is certainly pressure in the public domain on that issue. I do not know whether the UK Government has any control over the issue; it seems to me as though the EU is recalcitrant on that point. Securing that agreement would be helpful for us all.

The Scottish Government paper "Scotland's Place in Europe", which reads well, seeks a "differentiated solution". We now know that, if it does not get that, there will be another referendum. I do not want to get political here, but I need to make the point—indeed, I have been instructed to make the point—that the UK market is crucial to our future in Scottish farmed salmon. We need to do all that we can to ensure that there are no impediments to trade in that market—forever, basically.

**The Convener:** I am happy for you to leave it there, Scott.

**Michael Bates:** One thing that we would like now is a guarantee on the security of EU nationals who already reside here. I am pretty sure that every industry in our country that is reliant on EU nationals and not just the fish processing sector would agree with that. It is vital to have them; we cannot replace them.

Are there other implications? I have touched on all my points—the tariff, single market access, sustainability, investment and employment. However, there is now the double uncertainty. Up until last Friday, we were thinking about what Brexit will do for us. Before we know what that will be, we have a political uncertainty, shall we say, about what Scotland wants to do. We would rather have had Brexit dealt with, gone out of the EU, seen where the country was and then dealt with the second question.

**Bertie Armstrong:** I will speak in the briefest possible terms. Although it has not been stated, the implication is that the balance of benefit from Brexit's sea of opportunity far outweighs the challenges that are coming our way. We regard this whole thing as one of the bright spots.

We make a plea to both Governments to work together to make certain that, under any constitutional arrangement, we do not end up back inside the common fisheries policy. To borrow a phrase from our Norwegian friends, who I am sure were very taken with yesterday's announcement, if the issue is well handled, it will keep the lights on in coastal communities around the United Kingdom that would not be kept on otherwise.

**Alistair Sinclair:** I agree with the latter part of Bertie Armstrong's statement: we must keep the lights on in rural communities along our coastlines. Furthermore, we have to try to look at Brexit as an opportunity. If we do that, there might be an opportunity to bring more of our own folk back into the industry, from villages where those roles were lost. That is the ethos under which we work.

**The Convener:** I am nervous about what will be on your list, Mr Duncan. [*Laughter.*]

**Calum Duncan:** On the implications aspect, I did not mention two things. The first is bycatch. It is important that whatever arrangements we have effectively address bycatch of marine birds, marine mammals, basking sharks, turtles and so on as part of the spatial measures that we think can deliver more benefit; indeed, more can be done to meet environmental criteria in that regard. Secondly, functional unit management should be looked at, so we need to look at the grounds that fish and shellfish associate with.

To echo Bertie Armstrong and Alistair Sinclair, before we leave the EU, all four Administrations need to work together. The joint ministerial committee is the place where that could and should happen. The Administrations need to come up with governance and management arrangements that are compliant with the Aarhus convention, irrespective of the constitutional arrangements, and that deliver socially and environmentally just fishing within environmental limits.

**Professor Churchill:** I am here in a personal capacity; I do not represent any sector. One matter that I would stress and that we have not said a lot about is the importance of having in place a management authority or authorities on day 1 of Brexit that is or are well staffed and equipped with the necessary expertise. At the moment, it seems to be rather unclear what the relationship between a UK authority and the devolved Administrations will be. That must be sorted out before day 1.

I also agree with Calum Duncan's points on sustainability.

**The Convener:** On behalf of the committee, I thank everyone who has come this morning. It has been a productive meeting and the witnesses have left us with food for thought, so thank you for engaging with us. I am sure that, as part of the committee's remit, we will come back to you to ask for further information.

I suspend the meeting briefly to allow the witnesses to leave and for the committee to reorganise itself for the next session.

11:57

*Meeting suspended.*

12:02

*On resuming—*

## **Seat Belts on School Transport (Scotland) Bill: Stage 1**

**The Convener:** Agenda item 2 is on the Seat Belts on School Transport (Scotland) Bill. On Wednesday 8 March, the Parliament agreed that the Rural Economy and Connectivity Committee should be designated as the lead committee to consider the bill at stage 1. The Seat Belts on School Transport (Scotland) Bill is a member's bill that was introduced by Gillian Martin MSP, and it is supported by the Scottish Government.

To begin our scrutiny of the bill, we will take evidence from the Scottish Government officials who are providing support to the member in charge of the bill. I welcome Brendan Rooney and Kenneth Hannaway. Would one of you like to make an opening statement? We will then move on to questions.

**Brendan Rooney (Scottish Government):** Good morning, convener and members. Thank you for having us. I will set out the wider context and explain how we have arrived at the position that we are in, after which I will be happy to take questions.

The Scottish Government takes safety on the journey to and from school to be a matter of pivotal importance. That is borne out in a range of measures that are taken nationally to keep pupils safe, not just in motor vehicles, but when they are walking or cycling to school.

Given that the safety benefits of seat belts are well established and internationally recognised, the proposals in the bill are seen to make a valuable contribution to those wider aims.

There is history to how the legislative proposals have developed. They are not new to Parliament—they emanate from considerations by the Public Petitions Committee some years ago. The Scottish ministers subsequently stated their intention to act, and power was devolved via a section 30 order during the previous parliamentary session. The bill follows the introduction of similar measures in Wales following the use of a comparable devolution instrument.

The fact that the intention to legislate was announced in 2014 has allowed a substantial amount of engagement with stakeholders and parties who are involved in the delivery of dedicated school transport. As such, a collaborative approach has been taken to the proposals that are before the committee.

Central to all that has been the seat belts on school transport working group, which includes

key partners such as local government, the bus industry, parenting groups and regional transport partnerships. In addition, a thorough exercise has been undertaken, in partnership with the Convention of Scottish Local Authorities and the Scottish Local Government Partnership, to forecast the cost implications of the policy. Those are set out in detail in the financial memorandum, which has been submitted to the committee. The Scottish Government has welcomed the partnership working and the contribution of local government to those endeavours.

It is clear from the engagement that there is a very varied picture nationally regarding dedicated school transport. It ranges from double-decker buses that transport pupils in busy urban settings to single-decker coaches that take youngsters to school on rural A roads.

For councils, such provision is linked to the statutory duties in the Education (Scotland) Act 1980 relating to how far from their school pupils live. Grant-aided and independent schools align their provision with their own policies. Local authority provision is overwhelmingly delivered via contracts with private bus operators. Those contracts vary in size, scope and specification and can be quite different across the country, depending on council needs. A local authority can stipulate various measures within a contract, such as the standard of a vehicle or on-board features such as closed-circuit television, wi-fi or, indeed, seat belts.

Councils are increasingly writing seat belts into those contracts. Recent returns show that 18 councils already do so on all dedicated school transport, and the bill aims for that practice to become universal as a matter of law. It would apply to all dedicated transport vehicles, such as buses, coaches, minibuses and taxis, including those that are owned by local authorities and school transport providers.

Dedicated school transport is quite distinct from the public bus service, which some councils use to meet their statutory duties by giving pupils season tickets or paying for individual journeys. Extending the legislative measures in the bill to that provision would be outwith the scope of the powers that are devolved to Holyrood on the issue.

The bill's proposals do not mandate specific measures to be taken in respect of individual vehicles, such as retrofitting existing buses or coaches with seat belts, or a private operator renewing or reordering its fleet. Such decisions will be for private bus companies. The industry regularly shows flexibility and adaptability to meet shifting contractual considerations.

The grant-aided and independent school sector reports that its dedicated school transport is

almost universally provided with seat belts at present.

Existing UK law means that, since 2001, all new buses and coaches on UK roads that are not designed for what is classed as "urban use" have to have seat belts fitted. Therefore, as older vehicles are taken off the road because of wear and tear, or just generally retired from the fleet, the ones that replace them are more likely to have belts fitted.

With regard to young people with additional support needs or those who might need adjustable straps because of their height, the bill's provisions have been drafted to allow for that. The statutory definition of seat belt that is used aligns with UK laws, which stipulate that special belts or restraints can be used in their place, for instance for a young person who has mobility issues or is in a wheelchair.

The law on seat belt wearing on dedicated school transport remains a reserved matter. However, the bill represents an opportunity to promote successful approaches and wider awareness of the issue. Councils and schools use a variety of methods to regulate behaviour on school buses and to encourage seat belt wearing, and 18 councils have already implemented the measures that the bill provides for. Extensive dialogue has taken place with local government, parenting groups and other stakeholders. That will continue so that we can produce non-statutory guidance that will help to promote good practice on seat belt wearing to go alongside the bill, if it is enacted.

The Scottish Government conducted a three-month public consultation on the proposals last year; an analysis of it is before the committee for consideration. It garnered feedback from organisations and people across civic society, such as parents and schools, with the respondees overwhelmingly stating that such legislation would be a useful contribution to road safety.

We would welcome any questions that you have.

**The Convener:** Thank you, Brendan. Stewart Stevenson will ask the first question.

**Stewart Stevenson:** I want to ask a couple of questions along the lines of "Why the bill?" and why the Government supports the bill. To underpin that, can you tell us how many children are injured travelling in school transport who would be affected by the proposed legislation?

**Brendan Rooney:** Figures are not collated on the number of schoolchildren who are injured on dedicated school transport. The number of children up to the age of 16 who are injured on buses and coaches in Scotland is around 45 a

year. That is the figure for all provision, however—it is not the figure for dedicated school transport. It is not possible to extrapolate from the figures the precise number of children who are injured on dedicated school transport.

**Stewart Stevenson:** Do you have anything to indicate to the committee what proportion of those 45 children would not have been injured if seat belts had been available to them?

**Brendan Rooney:** An analysis of that has not been done. It is worth noting that those are children who were on a bus. If a child had been injured just after disembarking, they would be counted as a pedestrian, in statistical terms.

**Stewart Stevenson:** Yes, indeed—that is clearly a different issue. It could be as many as 45, but we can expect it to be rather fewer.

Let me come at this from a slightly different angle. Can you tell us anything about the nature of the injuries that the 45 suffered? In other words, were they comparatively minor ones, were they significant or were they a mixture of the two?

**Brendan Rooney:** Of that average annual number, three were serious and 42 were deemed “slight” in statistical terms.

**Stewart Stevenson:** So, basically, we have the statistical underpinnings. I have constituents who have been on the case of the bill for a long time, and I have supported them in that, but given the progress that seems to be being made and the numbers that you have given us, why is the Government supporting the bill?

**Brendan Rooney:** The Government’s stated intention for the proposed legislation goes back a number of years, to the previous Administration in the previous parliamentary session. As I have stated, seat belts are a well-established safety mechanism, and the Government feels that they would be a useful contribution to road safety on the school run.

**The Convener:** We can take up that point with Gillian Martin when she comes before us.

I have a question. Could you explain to me why the implementation dates are 2018 for primary schools and 2021 for secondary schools? Why was it decided to make that differentiation?

**Brendan Rooney:** The proposal is for the measures to be phased in, with the legal obligation for primary school vehicles to come in in 2018 and the obligation for secondary school vehicles to come in in 2021. There has been extensive dialogue with those who deliver the provision—that is, the bus industry and councils. The transition that is needed is greater for the vehicles that are used for secondary schools. More of those are not currently fitted with seat belts. The

timescale was arrived at in consultation and collaboration with those who deliver the provision.

We got feedback that accelerating the process would put significant pressure on councils and the bus industry and could lead to contracts being broken, which could greatly increase the costs for local government.

**The Convener:** I understand that, but one of the questions that Stewart Stevenson asked you was to do with injuries. You indicated that the 45 injuries recorded, of which I think you said that two were serious, were among people under the age of 16. You were unable to say what the split was. It might be that more secondary school pupils than primary school pupils are injured on buses. Therefore, there might be an increased need to accelerate the measures on secondary school transport. Was that considered prior to the bill’s introduction?

**Brendan Rooney:** Yes, that was considered. Implementation dates were discussed and a range of options were looked at. There is a balance to be found. With the statistics that we have, we cannot differentiate between secondary and primary. I cannot give you the split.

**The Convener:** I might pursue that question with Gillian Martin.

**John Mason:** You said earlier that the measures do not cover registered bus services. I understand that. Am I right in saying that the bill does not cover school trips, either? I am a bit puzzled by that—if children were brought to school on a compliant bus, why could they be taken to the swimming baths, for instance, on a non-compliant bus?

**Brendan Rooney:** You are correct to say that the bill as drafted does not cover school trips. School trips are subject to quite stringent and robust risk assessment. The duties that are placed on what is called the group leader—which, in effect, is usually a teacher—stipulate that there should be seat belts on the buses that are booked. There is quite a distinction in provision, in that home-to-school transport is organised at local authority level on a local authority-wide basis, whereas a school trip often involves a teacher booking a bus for their individual class. There is guidance in place that promotes seat belts and stipulates that there should be seat belts on the buses that are booked.

12:15

**The Convener:** That is an interesting point. Although the guidance for teachers says that they should book buses with seat belts, there is no obligation on them to do that—there is no legal requirement for buses that are used on school

trips to have seat belts. Is that what you are saying? I think that parents would find it difficult to understand the different approaches, as John Mason said.

**Brendan Rooney:** That is right. There is not a legal obligation on teachers, or group leaders, to ensure that buses with seat belts are used for school trips. However, the feedback is that, in practice, that is universally done and the guidance is well adhered to.

**Mike Rumbles:** I would like to follow up on the convener's line of questioning. Is it a devolved power to legislate to ensure that seat belts are used on school trips, where they are provided, or does that authority lie with the UK?

**Brendan Rooney:** No. That is devolved—

**Mike Rumbles:** So we could do it now. We could do it in the bill.

**Brendan Rooney:** Technically, I believe that that is the case.

**Mike Rumbles:** Okay. Perhaps an amendment could be lodged.

**The Convener:** We can consider that further.

Richard Lyle will ask the next question.

**Richard Lyle:** Good morning. If I take my grandkids to school, I have got to have two seats in the back with seat belts, and I have got to ensure that my grandkids are well fastened in. There are 32 councils, of which 18 already require all dedicated transport to be fitted with seat belts; 14 do not. A further six stipulate that some contracts—for example, those for services for primary school pupils or those that involve a particular type of vehicle—require seat belts. Mr Rooney made an interesting comment about new buses coming on, but there are still 110 buses that have not been fitted with seat belts. With the greatest respect, I would contend that most of those buses are quite old—they spew out diesel fumes as they go along the road. John Finnie will be interested in that.

This issue has been on the go for a number of years. Why do the other authorities not insist that there are seat belts on the buses in question? Is it because the people who tender still have ancient buses and they do not want to spend money bringing them up to standard, or is it because we have not insisted that they get it sorted?

**Brendan Rooney:** There are a couple of points there. The issues vary from council to council. It is a fair assumption that some of the buses will be older vehicles. As I said, since 2001, any new bus that comes on to UK roads must have seat belts fitted, unless it is designed for urban use and has standing room. Double-deckers, for example, are designed for urban use, and some single-deckers

that are used on commercial bus services do not have seat belts fitted. It is the stipulation relating to standing room that means that a vehicle is designed for urban use. Larger coaches, which are often used in more rural authorities, given the faster roads and the more rural environment, are more likely to already adhere to those wider UK laws.

Since the ministerial announcement in 2014, an increasing number of councils have been stipulating the use of buses with seat belts in preparation for the legislation. Given that we knew that powers were being devolved via a section 30 order, there was a good amount of time to engage with councils and the bus industry to help them to get ready for the legislation and make the transition. That is borne out in the feedback that we have had that it is increasingly happening in the run-up to the legislative measures.

**Richard Lyle:** You are basically saying that the buses in which seat belts have been fitted are those in rural council areas. I am interested in what happens near my area—in Glasgow, South Ayrshire, East Renfrewshire and West Dunbartonshire, which are covered by Strathclyde partnership for transport. Why do buses in those areas not have seat belts fitted? Are bus companies in the SPT area particularly averse to that?

**Brendan Rooney:** I do not know whether the committee is going to take evidence from SPT. It contracts for a number of local authorities in the west of Scotland and runs an extensive number of contracts with various bus operators. The feedback from SPT to us is that it is increasingly writing a seat belt stipulation into those contracts as we move towards legislation. However, I cannot talk categorically about the decisions that it makes on individual contracts—like any local authority or regional transport partnership, it has the option of writing a stipulation for seat belts into those contracts. It might depend on provision in the area and on what bus operators are offering, but I cannot vouch for the decisions that SPT makes.

**Richard Lyle:** What will the bill mean for SPT? Is SPT pushing the operators to fit seat belts, or is it not doing that because it does not want to rock the boat? Can SPT require the operators to fit seat belts only as the contracts come up for renewal?

**Brendan Rooney:** Yes, I think that that will be done when contracts are renewed, as it could be difficult to change the terms of a contract midway through it. The feedback to the Scottish Government has been that SPT is increasingly writing such a requirement into contracts and is phasing seat belts in as we progress towards legislation. SPT has a large number of contracts for various local authorities, and I understand that

although it does not require all the operators to fit seat belts, it is increasingly moving towards that.

**Richard Lyle:** Thanks very much.

**The Convener:** Mike Rumbles has questions on enforcement.

**Mike Rumbles:** I say first that I think that it is right to have seat belts on school buses. The committee's work now is to scrutinise the bill and see whether it is fit for purpose. Correct me if I am wrong, but if we pass the bill and require school transport to have seat belts, we will still not be requiring that they be used. Is that correct?

**Brendan Rooney:** Do you mean that we will not require that they be worn?

**Mike Rumbles:** Yes.

**Brendan Rooney:** That is still a reserved issue.

**Mike Rumbles:** We cannot legislate for that.

**Brendan Rooney:** We cannot place a duty on a driver—

**Mike Rumbles:** When I asked you whether we could legislate for the use of seat belts on school trips, you said that we had the power to do that.

**Brendan Rooney:** I am sorry: I was, perhaps, not clear. The Scottish Parliament cannot legislate on wearing of seat belts, but legislation could be passed that would require them to be fitted—

**Mike Rumbles:** We cannot legislate for their use on school trips, either.

**Brendan Rooney:** No.

**Mike Rumbles:** Okay. That is clear now. The bill is purely about getting seat belts fitted. Is that the right way to go about it? I think that everybody is supportive of the process. Has the Scottish Government asked the UK Government to use its legislative power to pass a bill that would allow us to enforce fitting and use of seat belts?

**Brendan Rooney:** To my knowledge, the Scottish Government has not done so, but I could write to the committee on that. I am not certain. There may well have been reluctance to devolve beyond what is already—

**Mike Rumbles:** I am not talking about devolving; I am talking about the Scottish Government asking the UK Government to legislate on the issue. I fear that although we are spending time on the legislation—which I want to be effective—in committee and Parliament, we might put a big tick in the box and say, “Job done,” only to find that kids are still being injured. I want whoever legislates for this to have the best solution. It would be helpful, therefore, if you could let the committee know in writing whether the Scottish Government has asked the UK

Government to legislate, so that we do not go off at half-cock, as it were.

**The Convener:** Is it a legal requirement to wear a seat belt on a bus in the United Kingdom?

**Brendan Rooney:** Kenneth Hannaway will answer that.

**Kenneth Hannaway (Scottish Government):** That comes back to Mr Rumbles's point. There is a fairly intricate set of statutory provisions that cover the wearing of seat belts. The short answer to your question is no. There are various exceptions and exemptions, examples of which include children under 14 and particular types of eco-coaches. There is a related EU directive under consideration that has not been implemented by the Department for Transport. There is a framework, but it is not universally applicable.

I could help to clarify a point for Mr Rumbles—I do not know whether it was adequately clarified—about the question of what is reserved and what is devolved. We are doing a particular thing with the bill in relation to school transport between home and school, and I think that your question was whether that could be widened out to include school trips during the day and so on. The answer to that question is yes, because a section 30 order effectively devolved power over the

“arrangements for persons to travel to and from the places where they receive education or training”.

What we are doing is in the specific category of travel between home and school, but that could be widened out to school trips.

**Mike Rumbles:** It is about the fitting of seat belts, not wearing them, so there would be no enforcement.

**Kenneth Hannaway:** That is exactly right. It would be a requirement that education authorities would have in their contracts that buses that are used for that type of provision have seat belts fitted.

**The Convener:** I understand what you have just told me. I will look at the matter from the perspective of someone whose child is on a bus. Let say that something horrific happened and the child was injured on the bus. That person would turn round and say that the Scottish Government had made it law that seat belts had to be fitted on the bus. There would be no requirement to wear a seat belt, so the onus would be on school teachers to make it acceptable practice to wear seat belts on the bus. The Scottish Government would be saying, “Fit seat belts. School teachers have to encourage children to wear them. Job done.” Parents in Scotland will not feel that that is right. I wonder whether that is a question that we should ask the minister. Is that your point, Mike?

**Mike Rumbles:** It is. We have a series of unfortunate questions, but they are legitimate. What I take from the answers from the officials is that, in legislative terms, there will be no enforcement. As I understand it—correct me if I am wrong, but this is coming to light only now—the bill is purely about the technical aspect of having seat belts fitted. It is not about any other issue related to whether kids are safe travelling to and from school on buses that have seat belts fitted. If we are to take legislation through, we should be comprehensive and attack the potential problem that we all see, rather than go off at half-cock—if I can use that expression—with a bill that does not cover people’s worries.

**The Convener:** I probably jumped the gun by making my comments, as we will have two evidence sessions with witnesses and can reasonably ask such questions.

**Richard Lyle:** On the convener’s point, it is not school teachers who are on a bus at 8 o’clock in the morning; it is bus drivers who take kids from the furthest away point to school. It would be the bus driver who would need to say to kids, “Put your seat belts on,” and who would need to stop perhaps every two minutes to check that people had their seat belts on. The points that Mr Rumbles and the convener made are quite valid. Who will be liable for enforcement, if there is to be any enforcement?

**The Convener:** I am not sure that the two gentlemen on the panel can give us the answer. Perhaps that is something that we can take up with the minister. Do you want to give us a short answer to the question? Is what Richard Lyle said correct?

12:30

**Brendan Rooney:** Yes. The legal measures on seat belt wearing are reserved to Westminster and are overseen by an EU framework. In practice, councils have various ways of monitoring and improving behaviour on school buses. Some use bus monitors and some use prefects or older children, who help the youngsters to put their belts on: it is not always the bus driver who must do such things. We have had a lot of engagement with local government on the issue, and some innovative measures seem to be in place. As I said, we envisage comprehensive guidance that will help us to look at the best approaches, but it is fair to say that legislation on use of seat belts is outwith the scope of devolved powers.

**John Finnie:** The officials have obviously been charged with doing a job and are doing it thoroughly. I sense the frustrations that you and Mike Rumbles feel, convener, so it might be appropriate for the committee to seek devolution

of the necessary powers. There may be a range of frustrations about the situation, but I presume that that is an option that we could pursue.

**The Convener:** The critical thing that the committee needs to consider is whether the bill will achieve what it has set out to do, which is to safeguard children.

**Mike Rumbles:** May I comment?

**The Convener:** I think that John Mason wanted to come in.

**Mike Rumbles:** It is just a technical point. You said that good practice in local authorities is to have somebody on the bus. Could we amend the bill to place a duty on local authorities to have someone on buses to ensure that the children wear seat belts? Is that within our legislative powers?

**Brendan Rooney:** I would have to write to the committee on that point. It is a different issue from the section 30 instrument that devolved power on the fitting of seat belts. It is something that we would have to look at more widely.

**Stewart Stevenson:** My question is on the same subject, but I want to engage directly on the drafting of the bill. Maybe Rhoda Grant’s question should precede mine.

**Rhoda Grant:** My question is about the duty of care. Although there is no legal responsibility, people send their children to school and hand them over to the authority, which is in loco parentis. If a child was in an accident and was not wearing a seat belt, one would imagine that the parent would come back against the authority, because it had not ensured that the child was being cared for appropriately. Might there be a comeback under health and safety or negligence legislation?

**The Convener:** Brendan Rooney looks as if he wants to consider that and write to the committee before our evidence session. That is a key question that runs through the themes in the points that other members have made.

**Brendan Rooney:** We will certainly take those questions away and write to the committee.

**Stewart Stevenson:** I am addressing my question to the officials because I presume that the drafting of the bill lay in their purview. Of the six sections, there are two active sections—sections 1 and 4. I take it from the commencement arrangements that those two sections would be commenced at a later date, to be chosen by ministers. Section 1 is commendably brief. It states:

“A school authority must ensure that each motor vehicle ... has a seat belt fitted to each passenger seat.”

That is fine, but section 4, on the face of it, appears to introduce some doubt, because it would require each school authority to provide an annual compliance statement on whether it has done what it must do under section 1. I wonder whether the secondary legislation that would introduce the transitional savings provision will show that the “must” element is not immediate, but is phased. Am I making a correct hypothesis?

**Kenneth Hannaway:** I think that that is right, Mr Stevenson. There are the high-level dates and there is, as you say, the section 1 duty. You will recall that there is no intention at this stage to require authorities to break contracts, so the nuts and bolts of the transition will, I think, be as you say.

**Stewart Stevenson:** So, the whole point of section 4—which, if one were to read simply section 1, appears to be pointless—is that because we expect fitting of seat belts to be phased, the bill requires authorities to produce annual reports so that Parliament can monitor what is going on.

That leads me to a modest supplementary question. I presume that, at some point, when all the authorities are reporting 100 per cent compliance, we will be able to suspend the requirement in section 4, rather than for ever more receive from authorities reports that tell us what we already know.

**Kenneth Hannaway:** I will note that. Thank you. That is helpful.

**Stewart Stevenson:** Good. Thank you.

**The Convener:** We move on to finance. John Mason will start on that.

**John Mason:** As I understand it from the financial memorandum, we are talking about a cost of £8.92 million. Part of me wonders why there is any cost, given that 18 local authorities have achieved seat belts on buses—I presume that that is just because buses have gradually improved in that regard, as they have done in terms of disabled access and lower emissions. There have been a whole lot of improvements on buses in general. Why do we feel that we have to give anybody any money to improve buses in this way?

**Brendan Rooney:** The costs are essentially the knock-on effect of increased contract costs and local government outlays. More stipulations in a contract generally leads to a cost increase—extra stipulations mean that contract costs go up. That is how the figures have been arrived at. It is quite challenging to isolate the precise costs, because a range of options are open to private bus operators to meet a contract. Essentially, the figures are based on previous increases for contracting

authorities—councils—being applied to future contracts. They are based on forecast increased contract costs in the future.

It is fair to say that, as we have discussed, some buses may well go out of service anyway and some may not. The Scottish Government has an understanding with local government that any new burdens are costed and looked at robustly in financial terms. That is the exercise that we undertook with local government, which arrived at the figures.

**John Mason:** It appears that the bill would reward the bad authorities that have not done what they should have done already: 18 authorities that have found the money—I presume by trimming their library services or something else—would lose out. If my maths is correct, £8.92 million equates to £89,000 per bus, if there are 100 buses.

**Brendan Rooney:** It has not been worked out on a cost per bus. It is a yearly annual increase.

The money will not be distributed only to the 18 councils that John Mason mentioned. COSLA and the SLGP negotiate on behalf of all their members; it would not have been fair for councils that have already done the work not to receive some financial recompense for it. The figure is the national figure for local government and not a breakdown between 18 councils. The precise distribution will be worked out, as all local government funding is, in negotiation with the local government representative bodies, and it will be looked at in the block grant. We do not have a breakdown council by council.

**John Mason:** I will leave it at that.

**The Convener:** I feel that you might be asking that question again at a future evidence session, John.

**Rhoda Grant:** How will the additional money be distributed? John Mason talked about councils that have good practice being penalised. However, it may be that councils have not done the work because they cannot afford to do it. If the money goes into the block grant, everyone will get a share, but some councils will be out of pocket through having to recontract for a higher price. I suppose that this is fraught with unfairness because it involves either penalising some authorities or not fully compensating others.

**Brendan Rooney:** We are transport department officials, so it is fair to say that we are not immersed in the nuances of local government financing. However, the financial memorandum covers local government as a whole. My understanding about the settlement and distribution is that exactly how much is apportioned to individual local authorities is

decided between local government and the Scottish Government in the round of the block settlement. We are not in a position to give a detailed breakdown of what money will go where. The overall costs in the financial memorandum make a forecast of the national figure for local government. At this stage, there is not a breakdown of what will go to individual councils.

**Rhoda Grant:** Would we be able to get that for our consideration of the bill? Obviously that issue will be raised with the committee.

**Brendan Rooney:** We will certainly see what we can give the committee. We will endeavour to give you as much information as we can on how the money will be distributed.

**The Convener:** Richard Lyle has the final question, and has promised that it will be a quick one.

**Richard Lyle:** It will be quick. When I was a local authority councillor I could never get this, and I still cannot. If a contractor wants to provide a bus to run children to school, that contractor should provide the seat belts. Why should that be a cost to the council? If someone wants a contract, should it not be a cost to them?

**Brendan Rooney:** I suppose that that question is better directed at councils and private contractors. Our understanding is that stipulating extra measures in a contract leads to increased costs. There is not a specific unit cost for that. With any contract, things such as competition and the amount of provision in an area are factors. In an area where there is a lot of competition, those who bid for contracts will have to be more competitive and will seek to keep their prices down.

**Richard Lyle:** However, as somebody said earlier, you are stipulating that it will be a couple of years before the bill's provisions come into force for primary schools and then a further number of years before they come into force for secondary schools. By that time all the contracts should be out of date and new contracts will be coming in. Local authorities should then say, "Bring your new bus and you can have the contract." Is it not that simple?

**The Convener:** Richard, your point is well made. Gillian Martin and the other stakeholders may be able to answer that when they come to the committee.

We will stop there. We will have two further evidence sessions, which will include evidence from Gillian Martin. I thank the witnesses for attending the meeting. The clerking team will be in contact with you to request further information on a few matters. I would be grateful if you could let us have that as soon as possible.

12:42

*Meeting suspended.*

12:43

*On resuming—*

## Subordinate Legislation

### Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Outer Hebrides) Order 2017 (SSI 2017/48)

#### Animal Feed (Scotland) Amendment Regulations 2017 (SSI 2017/38)

**The Convener:** Under the third agenda item the committee will consider two negative instruments and whether it wishes to raise any issues when reporting on them to the Parliament. Members should note that no motions to annul the instruments have been lodged and no representations have been made to the committee about them. However, I know that one or two committee members would like to comment; I ask John Finnie to go first.

**John Finnie:** I will speak to the Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Outer Hebrides) Order 2017. It is not my intention to move a motion to annul the order, but I would like to highlight some points, which the committee may wish to pick up on at a future date.

No one could object to the policy objective of protecting fish stocks, which is outlined in the policy note. The policy note also says the intention is to

“better reflect current fishing practices”

and we know that there is a blanket ban on fishing in some areas.

A constituent has been in touch with me about the order and has shared the correspondence that he has had with the Scottish Government, in the form of Marine Scotland. I quote from a couple of passages:

“Turning now to your main concern that a precedent is being set whereby if scallop dredging is prohibited in an area then diving for scallops may similarly be curtailed.”

12:45

The territory here, which even experts tell me is quite complex, is about overlapping areas of responsibility. I will not go into details on that. The letter goes on to say:

“On your questions over the proposed benefits of the closure. The amendment will bring diving for scallops into line with current restrictions on dredging for scallops and help to limit effort in the fishery.”

Those are two entirely different situations: one is a sustainable fishing method; one is entirely destructive. People need make only a cursory

examination online to see video footage of the effect of these fishing methods.

The policy note, under the heading “Financial Effects”, says that, in relation to the business and regulatory impact assessment:

“the policy will better complement current fishing practices”

—I do not accept that—

“by helping to ensure that shellfish are caught at times that are most suitable for market conditions.”

I do not think that conservation should be driven by market conditions. I ask what the situation is outwith those times.

My principal frustration is about who will monitor and police this regime. It is my understanding that it will be very challenging. We have a series of maps here—we can see the locations and everything else. Unless we have adequate enforcement, on the last day before closure, or on the first day of closure, a dredger could go through there and cause immeasurable damage. That would not be the impact of more sustainable methods, such as diving. There is a question of proportionality here, which I do not think has been achieved. Members may sense frustration in my voice about the shortcomings.

I am aware that I am not shy at making suggestions for our work programme, but I hope that, at some future point, the committee will look at the matter. I think, following on from some of the Brexit and fishing discussions this morning, that this will become an issue. I would like us at some point to consider the cumulative impact of the various orders and the monitoring that will take place to ensure that they are complied with. I am concerned that we have a big bundle of paper that means nothing, except that it affects those who are going about their business in a sustainable way.

**Stewart Stevenson:** I looked at the 10 consultation responses—nine have been published and one has been withheld for whatever reason. It is worth making the point that this is an update to a 30-year-old plan. It is not creating new areas on the map; it changes the boundaries. The only new area appears to be the Loch Roag area, where static gear fishing for shellfish will be prohibited during three months from May to July—that is designed to protect the area’s shellfish stocks. As one reads the detail, that appears to be the intention.

I looked at the responses to the consultation and, while there were arguments on both sides, in favour and against, the thrust was pretty firmly in favour of what the Government has brought forward. I absolutely make common cause with John Finnie that it is a highly complex area and is

often quite controversial in very particular local areas. My knowing that is precisely why, unusually, I read all the consultation responses, which I would not normally do for something like this. It is proper that, at some point, we consider for the work programme the general subject of the inshore fisheries. The numbers are small in macroeconomic terms, but hugely economically important to very small and vulnerable communities and it is quite proper that John should make that point.

I do not wish to see the order impeded; it should proceed.

**The Convener:** Like John Finnie, I looked at all the maps and tried to equate the measures to people on the ground and the effect that they would have on individuals as well as on the environment. I found that quite difficult to do. Although he might not want me to align myself too closely with him, I probably do align with John in this situation.

The Government has promised to introduce a bill on inshore fisheries this session, which the committee will have the opportunity to consider. I would like the committee to consider the issues in a lot more detail at that point. Like Stewart Stevenson and—I suspect—John Finnie, I do not want to prevent the order from going ahead. However, I found it difficult to understand and to make relevant comment on, given the information that was provided.

I will let Rhoda Grant and Richard Lyle comment. After that, I will ask for the committee's decision on the order.

**Rhoda Grant:** I asked the local fishermen's association about the order because I did not know how it would work on the ground. I was told that the order was part of the regional inshore fisheries group's negotiations and that they had worked extensively on it. They said that they were happy with it and felt that the decision making was good because the fishing interest had been involved.

I worry about some of the Scottish statutory instruments that come to the committee, but the order before us seems to have been welcomed, to an extent. Not everyone will be happy with all of it, but decisions seem to have been made on the basis of the needs of the local area and of conservation. There is a balance to be struck.

**Richard Lyle:** I take cognisance of the point that John Finnie made, and I note that the impact assessment accompanying the order states:

"Marine Scotland Compliance is responsible for the monitoring and ... Fishery Officers have the power".

I agree that we should look at including this in our work programme, especially given the

comments that we heard earlier from Alistair Sinclair, the national co-ordinator of the Scottish Creel Fishermen's Federation. We should be looking not just at the big issue of fishing in the waters up to the 200-mile limit, but at the inshore fisheries.

**The Convener:** I take it that the committee's view is that we should delve further into the issues when the inshore fisheries bill is introduced.

On that basis, does the committee agree that we have no recommendations to make on the order?

**Members indicated agreement.**

**The Convener:** If there are no comments on the Animal Feed (Scotland) Amendment Regulations 2017, does the committee agree that we have no recommendations to make on the regulations?

**Members indicated agreement.**

*Meeting closed at 12:52.*

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