

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 7 November 2007

Session 3

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CONTENTS

Wednesday 7 November 2007

	Col.
BUDGET PROCESS 2008-09	181
CROWN ESTATE	190
FLOODING AND FLOOD MANAGEMENT INQUIRY	194
TICKS AND TICK-BORNE DISEASES	195
SUBORDINATE LEGISLATION	196
Less Favoured Area Support Scheme (Scotland) Regulations 2007 (SSI 2007/439)	196
Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 5) Regulations 2007 (SSI 2007/473)	199
Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No 3) Regulations 2007 (SSI 2007/481)	199
FISHERIES COUNCIL	200

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

7th Meeting 2007, Session 3

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Karen Gillon (Clydesdale) (Lab)

*Jamie Hepburn (Central Scotland) (SNP)

*Des McNulty (Clydebank and Milngavie) (Lab)

*Peter Peacock (Highlands and Islands) (Lab)

*Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Bill Kidd (Glasgow) (SNP)

Nanette Milne (North East Scotland) (Con)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Jan Polley (Adviser)

THE FOLLOWING GAVE EVIDENCE:

Bertie Armstrong (Scottish Fishermen's Federation)

Dr Euan Dunn (RSPB Scotland)

Helen McLachlan (WWF Scotland)

Mark Ruskell (RSPB Scotland)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Mark Roberts

ASSISTANT CLERK

Katherine Wright

LOCATION

Committee Room 4

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 7 November 2007

[THE CONVENER *opened the meeting at 10:01*]

Budget Process 2008-09

The Convener (Roseanna Cunningham): Good morning and welcome. I remind everyone to switch off their phones and pagers, or at least to take them away from their microphones, where they cause the most damage.

Item 1 is consideration of the committee's approach to the Scottish Government budget 2008-09. I welcome our budget adviser, Jan Polley, whose appointment was agreed by the committee some weeks ago. She can be brought into our discussion, because she has a formal role as our adviser.

The budget will be published on 14 November. Committee paper RAE/S3/07/7/1 sets out a possible approach, and paper RAE/S3/07/7/2 gives background information on the Howat report—the report of the budget review group. I need a steer from members on whether they want to invite witnesses from the review group, or other witnesses, to give oral evidence on the budget at our meeting on 21 November—there is not a great deal of time in which to invite people. At that meeting, we will take evidence on fisheries, so we might have two evidence sessions that day.

I invite members to discuss how we should approach the budget and whether it would be helpful to hear from witnesses on 21 November. I assume that we can take it for granted that we will invite the Cabinet Secretary for Rural Affairs and the Environment to give evidence—the clerk is advising me that that will happen at a later stage. We are talking about oral evidence from witnesses other than the cabinet secretary.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I was keen that we should examine the Scottish rural development programme, because it was not all in the public domain. However, the programme is now in the public domain, so I am satisfied in that regard.

I have suggested that we take one aspect of the programme and examine it thoroughly, so I am pleased that the options for consideration in our paper include the budget line that I wanted to consider—the £10 million for the new entrants scheme, which is a small element of the budget.

Given that the Scottish Government has asked the tenant farming forum to work on the scheme, it would be beneficial to invite representatives of the forum to our meeting on 21 November, so that we can interrogate them on how they are taking matters forward.

Peter Peacock (Highlands and Islands) (Lab): My impression is that members are all new to the area, so I would like us initially to take a broad approach. We should ascertain the main areas of spending and gain a full understanding of why those are the main areas of spending and what objectives the Government is trying to achieve.

Over years of looking at public expenditure, I have noted that a key aspect of all budget processes is that a lot of expenditure is fixed and not really up for grabs. To exercise choice in any budget process, one has to look at the areas of real discretion. It is important that we try to identify what those areas are in the overall set of figures that we will receive. We should focus on that.

The Convener: That would seem to be the £70 million that Howat identified.

Peter Peacock: It might be, but it could also be other things. I do not want to get into the issue that emerged over the weekend about the exercise of discretion by a minister in the previous Administration, but it indicates the extent of the available moneys over which discretion is exercised. That is the sort of territory that we should get into.

I have another couple of points, convener. We also need to look closely at the pattern of underspend over recent years by considering end-of-year outturns. Again, those figures will give us a clue about how much discretion is in ministers' hands.

I agree with Mike Rumbles about the Scottish rural development programme, although I slightly disagree with him about whether we should be looking at the £10 million, because, in doing so, we could lose sight of the whole thing. That said, it would not be illegitimate to look at that area, but how much time should we spend on it?

I am not keen on the Howat stuff. If we want to consider the report, we should do so at a later stage. I am unsure whether it covers the areas that I want the committee to look at.

The Convener: I advise committee members that the Finance Committee has urged committees to use Howat as a basis for consideration of the budget so that a common thread runs through all committee budget deliberations. It wants to push us in the direction of Howat. The matter is one entirely for committees, but members need to be aware that the Finance Committee is looking at that.

Peter Peacock: I accept the point, convener, but I remain unconvinced.

We have two big inquiries on flooding and rural housing. Should we pick up the finance involved in those areas as part of those inquiries, or should we consider that as part of our scrutiny of the budget process? I am not sure how we should handle finance in those areas, although I am entirely relaxed about it. We should not lose sight of the fact that we will have a number of things to say about that, but where will we pick it up most effectively?

The Convener: We should pick up that issue during the inquiries. That would ensure that we are mainstreaming some of our budget scrutiny in the context of specific subjects. The timescale for the mandatory exercise of budget scrutiny is very short, which makes it difficult to scrutinise specific areas in sufficient detail.

I call Karen Gillon, who I think wanted to come in. I will then call John Scott.

Karen Gillon (Clydesdale) (Lab): Following on from the issue that Peter Peacock raised on ministerial discretion, I want to pick up on Sunday's press comment. The issue is not whether we decide to look in detail at the decision, but we should ask where the £40 million that was swishing about in a budget last year is. If the money is still available, it makes a wee bit of a mockery of the cabinet secretary pleading poverty over the sum of £25 million.

We need to look at flexibility: where it is, what is set and what is not set. For the past eight years, we have had the proverbial problem—I am sure that we will continue to have it—of where the budget lines are, what they are attached to, where the flexibility is and how the Rural Affairs and Environment Committee and the Finance Committee ensure that there are no large pots of money swishing about. In the grand scheme of things, £40 million may not appear to be a large pot of money, but people out there think that it is. Is the money in the budget this year? If not, where was it spent? Where did the underspend go? What is the projected underspend for this year?

The Convener: That would involve calling ex-ministers to come before the committee to discuss the previous year's decision, which is still slightly opaque.

I call Des McNulty and then Mike Rumbles.

Des McNulty (Clydebank and Milngavie) (Lab): I thought that John Scott was to be called next.

The Convener: I am sorry. I call John Scott, to be followed by Des McNulty and Mike Rumbles. I will then ask Jan Polley whether she wants to comment on what she has heard so far.

John Scott (Ayr) (Con): I take a different view from that taken by Peter Peacock. I think that we should consider Howat, particularly because it seems to open many cans of worms that are news to me. One point that springs out is the insistence that the crowded landscape be looked at. A sum of £1.3 billion is distributed among 15 sponsored bodies or agencies. I think we are all agreed that, by and large, we want to reduce the number of quangos. We can get a lot of information from Howat about the crowded landscape of which quangos are a part.

I am happy with Mike Rumbles's suggestion of considering the incomers scheme, but I am not sure that we need to take evidence from the tenant farming group, given that it is part of the consultation. It would almost be better to take evidence from NFU Scotland, which represents many more tenants than the tenant farming group does, but that is a matter for debate. However, if there are to be bids for time, I think it is more important to take evidence from Howat.

Des McNulty: I am particularly interested in the question of efficiency savings, but I am not sure that simply mapping Howat is the best way to go. However, like John Scott, I am interested in the proposals to fold together different agencies, and I am interested in testing ministers' proposals for delivering savings.

The big issue for us is measuring performance. It is not enough for ministers to say that they have targets—on the green trajectory or otherwise. They must be able to show us what practical steps they will take to ensure that the targets are progressed. We need to focus on the intermediate elements that ministers say they are doing, which are geared towards the longer-term targets that they have identified. The focus should be heavily on how the targets are being turned into practical steps.

John Scott: For information, I was taking Howat as a starting point, not as an end point.

Mike Rumbles: I agree with Des McNulty. I talked about looking at a small budget line and following it through—I hope that we will do that—but the big picture in the Scottish budget is about efficiency savings. Within Richard Lochhead's budget, I would like to know where we and he can see that efficiency savings can be made—that is the key to the whole thing.

I want to save members' time by pointing out a little misunderstanding. The convener used the word "opaque" with reference to the £40 million in the less favoured area support scheme. However, the situation is simple and straightforward; I do not know what all the fuss was about at the weekend. The scheme was put back about eight months, so—

The Convener: I do not want to get into the LFASS this morning. I just need to discover whether we will include it as part of our budget scrutiny or deal with it separately.

Mike Rumbles: Exactly. That is the point that I am trying to make. Karen Gillon commented that the minister will have £40 million swishing around, but that is not the case, because that sum is part of the European Union programme.

The Convener: There is obviously a debate to be had on that.

Mike Rumbles: There is no debate about it.

The Convener: The LFASS is an issue, and what came out in the press indicated the different ways in which money can be found for various purposes, which may or may not create difficulties within the broader Cabinet set-up. I do not know that that changes from Government to Government—there will always be that tension.

Mike Rumbles: I think that there is a misunderstanding of what we are talking about. It is not about money being found, because the money is part of the EU programme.

Karen Gillon: There is a significant issue here. The previous committee asked a former minister specific questions and received specific answers, which now appear not to be the case.

Mike Rumbles: That is just not true.

The Convener: I do not want us to get bogged down in the issue just now. The committee must decide whether to incorporate discussion on the LFASS in the more general discussion about flexibilities, efficiencies and so on, or whether to look at the issue separately. If we were to consider the LFASS in detail, we would need both the relevant former ministers to come and speak to us—there is no way round that. We need to have a feel for members' views.

10:15

Peter Peacock: I do not want us to have a separate look at the issue but, whether or not one takes Mike Rumbles's view, the key point is whether the issue signifies that significant discretion exists. All ministers who have budgets of thousands of millions of pounds have an element of discretion.

The Convener: Either the money came from somewhere else or it is new money, so which is it?

Peter Peacock: The situation may be illustrative of the fact that there is cash in the system that can be moved—it seems to be illustrative of that, even if it is a cash-flow issue, rather than a real cash issue. The matter is complex, but if there is cash in the system that can be moved, we need to know

about it, because that is where ministers can exercise choice and change the budget. That is significant for people who are arguing for more for the rural development programme or environmental stewardship schemes or for greater headage payments for sheep in the present crisis. To me, that is the important point—it is not the issue itself, but whether it signals that discretion is available. I suspect that there is quite a lot of discretion of that order. The historical underspends indicate areas of discretion and choice for ministers. We could have an impact on that in the long term.

John Scott: Is that a surprise? Should there not be elements of discretion?

Peter Peacock: Of course there should.

The Convener: The issue is the extent of the discretion, particularly in a budget such as the one that we are considering, in which the vast majority of expenditure is not discretionary. The question is what level of flexibility or discretion is available and how it is being exercised. There is also the bigger issue, which Des McNulty raised, of whether savings can be achieved even with mandatory expenditure. How much of that mandated expenditure is sacred? Can some of it be examined in an attempt to achieve efficiencies? The matter has those two aspects.

Des McNulty: You have summed up the situation effectively, convener. There are two focuses for us. One is the management of the department, for example in identifying efficiencies and managing performance. The second focus should be on policy choices that ministers make. Ministers will make policy choices in allocating funds. We must be able to identify clearly where ministers have made policy choices, either simply for next year or for the spending review period. The choices that the ministers make now will have longer-term financial implications. We must then hold ministers to account on the policy choices that they make. The issues of management and policy choices are the important ones.

We should bear in mind one other dimension, which is the need for a wee bit of flexibility round the edges in the way in which we consider the matter. The committees' remits match those of the ministers to a degree, although not always precisely. However, the ministers do not match with the departments precisely. There is a danger that some elements of the budget, which are often important, will be missed out because of the different roles, responsibilities and remits. All the committee budget reports will go to the Finance Committee, but we should ensure that key elements of the budget—for example, those on climate change—are focused on, either by us or by the Transport, Infrastructure and Climate Change Committee. That matter must be covered.

The departmental budget as a whole must be scrutinised properly. The chief official for the Scottish Executive environment and rural affairs department is responsible for the Government's greener objective, all aspects of which must be examined.

The Convener: I ask Jan Polley to comment on what she has heard so far and give her overview of where she thinks we might be at—all over the place, I think.

Jan Polley (Adviser): I will start with the Howat report, which has a particular strength, in that the people who wrote it know very little about this area of work and therefore their approach was to ask, "What about this?" and, "Have you thought about that?" That was particularly helpful.

The downside is that they might not have a lot more to contribute to your analysis, but they will have flagged up some interesting issues. For example, John Scott mentioned that such a big proportion of the budget goes towards agencies and bodies, and the report's authors could see that that might link in with the efficiency agenda. It is important to note how pressure is being kept on those budgets to achieve efficiencies.

A point was made about how much discretion there is in the budget. The budget that we are discussing does not contain the direct payments—the individual subsidies—that come from Brussels. It is therefore not that different from any other budget, in that it has a lot of discretion. Where it differs is in the timescale within which those decisions need to be taken. It is difficult with this budget, particularly where it relates to rural development funding, to take quick, ad hoc decisions to shift money round because plans have to be put to the European Commission, agreement must be sought in advance, ministers have to say what they will be spending X number of years in advance and so on. To contribute to that debate, it might be helpful for the committee to seek factual information on the timescales within which those discretionary and policy decisions will be taken so that you know what you are dealing with.

From what I can see of the LFASS debate—having read the paper and having been responsible for the LFASS several years ago, although I had nothing to do with the issue under discussion—I do not think that there is any extra money. I can explain to members afterwards what I think has been happening to LFASS finances.

The LFASS debate has come about because an ad hoc payment has had to be made. The old payment regime finished at the end of 2006 and the new regime has not yet been authorised, so, in relation to the vires for paying the money, the Government has had to find a slightly different way

of making payments for the eight months from April 2006 to January 2007. It is a £60 million scheme that runs for 12 months of the year and pays £5 million a month—eight times £5 million is £40 million, which equates to the eight-month gap. From the outside, it looks as if the plan was to spend the £40 million anyway, but because the rural development regulation and Scotland's plan were not passed, the money could not continue to be paid in the normal way. I am deliberately not going into the details. Although you might want to look at the matter, it might be a bit of a red herring in light of the bigger issue about policy choices and decisions on spending in the future.

The Convener: I want to bring this discussion to a close as quickly as possible.

John Scott: To add to what Jan Polley said, I would like there to be more discussion of the bigger issues in the Howat report, such as whether Scottish agricultural and biological research institutes should be integrated into further and higher education and whether job dispersal should be pursued as a policy—I have an open mind about whether that is a good idea. The Howat report has only one or two paragraphs maximum about such matters, but we could benefit from hearing about them from the Howat people—even if they have only limited knowledge—to inform the committee better. That would be a valuable way to proceed.

The Convener: As a matter of interest, I advise members that we have only two more committee meetings at which to deal with the matter—21 November and 5 December, and the cabinet secretary is already booked to speak to us on 5 December. If we try to make our budget scrutiny too wide, we will have to think about scheduling another meeting. We do not get the budget until next week and we need to report to the Finance Committee before Christmas, so we do not have a huge amount of time.

As I said, we will take evidence from the cabinet secretary on 5 December. At the moment, the only scheduled committee meeting with free space available is our meeting on 21 November.

Peter Peacock: Would it perhaps be appropriate for the budget adviser to meet the Howat people in the light of today's discussion? I have no problem with the specific issues that John Scott raised, but I am not clear that our taking evidence from the Howat people will take us much further forward. If, on the back of our discussion today and the issues in which we have all highlighted an interest, the budget adviser could speak to the Howat people, any further issues that might arise could be brought to us in an organised way. That might be a more effective way of dealing with the matter.

The Convener: I suggest that we approach the issue on the basis that we provisionally alert the Howat people that they might need to attend our meeting on 21 November but that we ask Jan Polley in the meantime to have a conversation with them to establish whether they would be able to add much to their report. If it transpires that they cannot add much, we will stand them down.

That leaves us with our 21 November meeting for substantive discussion and, possibly, for taking evidence from anybody else to whom we might wish to speak. Remember that we will take evidence from the cabinet secretary on 5 December. In addition, the clerk has helpfully reminded me that our visits in connection with our flooding inquiry are scheduled for the Tuesday of the intervening week, so it is unlikely that we could schedule another committee meeting for that week.

Are members content with that? That means that, at the moment, we have invited nobody to the 21 November meeting.

Des McNulty: It would be appropriate to take evidence, purely for clarification, from the department's officials on 21 November. We could ask them factual questions to seek to uncover information on the basis of which we will quiz the minister.

The Convener: That would be useful.

John Scott: Do you mean that we should ask them to respond to the points in the Howat report?

The Convener: No, we can ask them general questions.

Des McNulty: I want to know what is different in this year's budget, what changes the Government proposes to make and what choices are being made. The process would be purely for the purpose of eliciting information. We can then have a much more focused discussion with the minister, who will need to respond to more political questions on 5 December.

Mike Rumbles: I back up Des McNulty's suggestion. I would like to take evidence from the tenant farmers, but we are short of time so we should not proceed with that. Asking factual questions of the officials in preparation for the minister's visit is an ideal way to proceed.

The Convener: We can ask the tenant farming forum how it would approach the budget and consider any written evidence that it provides. We are not precluded from raising any of those issues separately, outwith the committee's budget scrutiny exercise. Indeed, we might uncover a whole set of things that we might be quite interested in pursuing at a separate time.

Okay, I think that the matter is now a bit clearer.

Crown Estate

10:29

The Convener: Item 2 is further consideration of issues relating to the Crown Estate. The paper that has been circulated outlines the main options for pursuing the matter. Various other papers have also been circulated, including a response from the Crown Estate and unsolicited letters from the Scottish Rural Property and Business Association and NFU Scotland—unsolicited by the committee, but perhaps not unsolicited in a more general sense.

We need to have a quick discussion about where we go from here. The background to the issue is that, at our away day, we identified the Crown Estate as an issue that would be worth considering for a day or whatever. The matter then grew slightly when it transpired that there were perhaps more questions than we had first anticipated. I do not want the committee just to drift into deciding to have another meeting about the issue without having a clear idea of what the end point is. The options before us are set out in paragraph 13 of the next-steps paper. There are three ways in which we can proceed, not all of which are mutually exclusive. I invite members to make some quick comments.

Jamie Hepburn (Central Scotland) (SNP): From the two meetings that we have had on this issue, it is clear that there are issues that merit further consideration. I agree that we have to be sure that we do not drift into a fuller inquiry without proper consideration of other demands on our time. We should follow the suggestion that is made under the second bullet point in paragraph 13, and consider this issue when we come to consider our work programme later. We should also follow the suggestion that is made under the third bullet point, which is that we write to the Government.

Paragraph 11 notes Mr Grant's offer to come to speak to the committee every year. That would be useful in some ways, but we should be careful about taking up the offer. Everyone might decide that that would be an appropriate thing for them to do as well, which might lead to our being inundated with offers. Perhaps we should say that we will invite him to appear before the committee after the submission of the annual report only if it is felt necessary to do so.

The Convener: I advise members that a reconsideration of the committee's future work programme is provisionally scheduled for the meeting of 19 December.

Peter Peacock: I have no problem with our having a fuller discussion in December. We should

also ask some of the outstanding questions that we did not have a chance to ask the representatives of the Crown Estate last time, some of which came from the supplementary evidence from the Crown Estate review working group. It would be worth putting those questions to the Crown Estate to ensure that, when we discuss the matter in December, we have even more clarity.

I am quite encouraged by the response that we have had from the Crown Estate. It is clear that it is on the move in a variety of ways. The fact that we have picked up these issues has helped with that. The offer to come and be scrutinised by the committee is to be welcomed. As Jamie Hepburn said, we should not fall into the trap of saying that we will scrutinise the Crown Estate every year. On the other hand, given that we have highlighted some issues, it would be nice to check, in a year's time, how far things have moved. Therefore, I think that we should accept Mr Grant's offer to come to speak to us next year.

I agree with Jamie Hepburn that we should write to the Government, as is suggested under the third bullet point. Perhaps we could also write to the Crown Estate to say that we welcome the offer of annual scrutiny and the fact that it is offering a separate Scottish report and that, in a year's time, we would like to revisit some of the issues and examine what the Crown Estate has done about the advisory liaison structure that it talks about in its letter—which is something that represents progress—and about engaging in discussions on the marine bill. Ian Grant hinted that there would be further announcements made on investment strategies in the marine estate. We should consider those in a year's time. We should also consider the investment issues that Mike Rumbles raised.

I should indicate that, along with other members, I accepted the invitation to go to the reception that the Crown Estate held in Parliament last week, which was followed by a dinner at which we learned a great deal about other financial aspects of the Crown Estate and the investment operations that exist. It would be good to consider the progress that had been made in that regard in a year's time.

The Convener: We could certainly write those letters. Regardless of what decision we make today, we should write to the Government to seek a clear indication of its views about the Crown Estate and to see whether we can get more information about the issues that were raised in the responses from the harbour authorities.

Mike Rumbles: A lot of good information has come back. I put on record that Ian Grant's statement that the Crown Estate had invested £200 million in Scotland last year was not correct.

The information from the Crown Estate shows that it invested £1.1 million—that is a significant difference. I understand that the reference was to a future investment, in Fort Kinnaird.

The Crown Estate wants to give us oral evidence on its annual report in a year's time. That is extremely important and we should accept Ian Grant's offer for next year, without making any commitment for future years. The committee wants to consider the issue during the coming period, and I am convinced that we need to review our work programme on 19 December with that in mind. I am happy to put the discussion back until then, but I agree with the suggestions about what could be done in the meantime. A number of questions deal with the CERWG report. It would be useful for the clerks, until we get to 19 December, to deal with Robin Callander, the expert behind the report, rather than anybody to do with the report itself. It will be helpful if the clerk can liaise with him and say that there are fundamental questions.

The Convener: The clerks are already in contact with Robin Callander.

Mike Rumbles: That is super. As long as we do that, I am happy for us to proceed in the way that has been outlined.

The Convener: We want to make progress behind the scenes and then have a further discussion on 19 December.

Des McNulty: I agree with Peter Peacock that the process that we have gone through has given us useful information about how the Crown Estate works. It has also forced the Crown Estate to think differently about how it engages with devolved institutions under the devolved arrangements in Scotland. If the convener writes to the Crown Estate, she should also ask it how, in the light of its experience of coming before the committee, it might take matters forward and address the issues that have been raised with it. It might help us if the Crown Estate could respond to the committee prior to the next review of the work programme.

It is worth asking the Crown Estate to comment on the marine bill, in the context of decisions south of the border and potential decisions in Scotland. Its evidence suggested that it would consider the marine bill in the context of the United Kingdom marine bill. That may not now happen within the expected timeframe, so the arrangements might be different now. In the light of that, it might be worth asking the Crown Estate for a comment on how it will proceed.

John Scott: I, too, largely agree with all that has been said. Many sensible suggestions have been made. I welcome Ian Grant's letter and the clear explanations that he gives, particularly on Mike Rumbles's point about yield. The letter explains

the matter clearly. It is interesting to note the difference in yield between the Scottish estate and the English estate. The Scottish estate's yield is lower than that of the UK estate—14.7 per cent compared with 16.4 per cent. In many ways that clears up what had been a contentious issue. *[Interruption.]* In my mind it does. It is a clear explanation.

We should take up the offer of conducting scrutiny of the Crown Estate next year, but we should not take it up every year, bearing in mind the number of other bodies that we do not scrutinise.

I agree with Peter Peacock's suggestion about a liaison group. That would be sensible as it would enable us to see what progress is being made.

I feel that somewhere in all this there is an issue to do with harbours, but I am not sure that we want to predicate everything—

The Convener: If we are going to have a further discussion about our work programme on 19 December, that is the appropriate point at which to discuss these matters.

John Scott: In the range of matters that the committee should be discussing, the harbour issue is almost a local dispute, if you know what I mean.

The Convener: It would be a local dispute if we were looking at only one harbour, but we can look at more general issues.

John Scott: Is there a way of resolving it and taking the matter forward before then, by correspondence?

The Convener: We have agreed, as far as we can, to get as much as possible down on paper before 19 December. At that date, we might decide that we have sufficient information to present a short report to Parliament—or not, depending on how we decide to proceed—or we might decide to consider the issue further. Let us wait until 19 December to see where we are and—importantly—where the rest of our work programme is.

Bill Wilson (West of Scotland) (SNP): I disagree with John Scott's interpretation of the yield.

The Convener: Okay. We can assume that there will always be disagreement around this table on any matter.

Flooding and Flood Management Inquiry

10:40

The Convener: Our flooding and flood management inquiry is in progress and we are still gathering written evidence. I wish simply to ask the committee to agree that, at the first meeting in January, we will take oral evidence from the Met Office, as that seems to be the most appropriate way to kick the inquiry off, and that we will hold a full committee meeting in Elgin in February, along with associated visits. I assume that Peter Peacock will agree to that.

Peter Peacock: Yes.

The Convener: I think that we have just given Peter his local press release for the day.

Elgin is one of the most recent areas to have flooded badly. We are visiting Perthshire, which is another flooding area, and Glasgow in November.

John Scott: On a practical point, if there is going to be snow at all in Scotland, it is in February—that is when the A9 is, statistically, most likely to be least good for driving.

The Convener: I suggest that everybody takes the train. You might not be aware that there is a train from Glasgow to Elgin. If we are going to do this kind of inquiry, overcoming some of those difficulties is part and parcel of what the committee is about. That is what other people have to endure and we may as well be subject to it.

Peter Peacock: Just for the record, John Scott should look at some of the data on weather in Scotland. The Moray coast has one of the finest climates anywhere in Scotland.

John Scott: The climate in Elgin compares unfavourably with that of the riviera of Scotland, which is Ayrshire.

The Convener: Before we all start putting in a plug for our own areas, do members agree to the two recommendations?

Members indicated agreement.

Ticks and Tick-borne Diseases

10:43

The Convener: When we identified our big inquiries at the away day, the subject of ticks and tick-borne diseases was one of the things that we put on a smaller reserve list. At our last meeting, John Scott noted his willingness to attend a Government-sponsored meeting on ticks and tick-borne diseases. The item is on the agenda today so that we can endorse his attendance at that meeting, say that it is on behalf of the committee and nominate him as a reporter on the issue. Are members happy to do that?

Members *indicated agreement.*

The Convener: Do members want to leave it open ended rather than specifying a timescale?

Members *indicated agreement.*

Subordinate Legislation

Less Favoured Area Support Scheme (Scotland) Regulations 2007 (SSI 2007/439)

10:45

The Convener: The cabinet secretary has responded to my letter about the breaching of the 21-day rule. I note that the Subordinate Legislation Committee has expressed similar concerns. Are members satisfied with the explanation, or do they want to pursue it further?

Karen Gillon: I am not satisfied with the explanation. The cabinet secretary's letter says:

"This is a highly technical instrument and I am afraid that it was not possible to complete preparation of the instrument any sooner."

It is a highly technical instrument every year and it is late every year. Our budget adviser earlier made the important point that we should be aware of timescales not just in relation to moving things about the budget but in relation to moving things about the budget but in relation to the laying of instruments. It is simply unacceptable for this to happen, no matter who the Executive is. We made the same criticism of the previous Executive as we are making of the present Executive. The officials appear to be slightly tardy in their work on the instrument. The instrument comes up every year and should be laid timeously in the Parliament to enable us to have a full and frank discussion.

John Scott: Perhaps surprisingly, I take a less harsh view of the minister's explanation. This year, the minister and his officials have had their hands full with foot-and-mouth disease and the threat of bluetongue disease. Members have seen all the instruments that have had to be laid before the committee as a result of FMD—I am sure that Karen Gillon is aware of them. It will have taken time and effort on the part of the same officials, as I understand it, to prepare those instruments. Like Karen Gillon, I hope that the minister will be able to do better in another year, given the disapproval of the committee thus far regarding the way in which the matter has been handled this year. However, I believe that his explanation is, if anything, understated.

Mike Rumbles: I disagree with John Scott and—I am afraid to say it—I agree with Karen Gillon. The minister says:

"This is a highly technical instrument and I am afraid that it was not possible to complete preparation of the instrument any sooner."

I find that astonishing. The minister published the Scotland rural development programme ahead of a debate in Parliament on 31 May, yet it took until 27 September to produce the regulations.

The Convener: In fairness to the cabinet secretary, the regulations have been late every year for—

Mike Rumbles: But it has taken four months.

The Convener: I will ask the clerks to go back over the past eight years and look at the timescales according to which we and our predecessor committees have had to deal with the same regulations every year. We can then say to the cabinet secretary that, although we have his letter, he must recognise the reality that the committee has had to deal with over the past eight years. There seems to be a presumption that the Government can lay the regulations late; that needs to be addressed.

We do not need to go on about this at length.

Karen Gillon: I would like to make a quick additional point. I absolutely take the points that John Scott makes about foot-and-mouth disease. None of us underestimates the impact of that. However, I would be grateful if, in your letter to the cabinet secretary, you could ask him to clarify what aspects of this “highly technical instrument” have changed since this “highly technical instrument” was introduced in Parliament last year and have required the officials to spend such a long time on the instrument.

Des McNulty: I do not quite understand the minister’s explanation of its being a “technical” instrument. It is no easier to deal with a technical instrument whether it is early or late. I would like to know whether there are any timescale factors, in terms of permissions or arrangements that need to be made, that make the instrument late each year—things that are to do not with the technical nature of the instrument but with the timescales that are associated with it.

The Convener: You mean that there might be reasons why it is late every year.

Des McNulty: I do not know. The cabinet secretary has not provided that information in his letter. I would be keen to know whether there are any factors other than the technicality of the instrument, such as timescales, that mean that it is late every year.

Bill Wilson: On a similar point, I would like to know the previous eight years’ worth of cabinet secretaries’ explanations for the lateness of the regulations. Is it the same thing that keeps them from being published on time each year?

The Convener: I suggest that, if it is the same thing, the issue is for the officials rather than whoever happens to be the titular head of the department. If that is the case, we need to be aware why that is the case and it needs to be gotten on top of. Allowing the matter to go every year without addressing it does not help.

I will write to the cabinet secretary, encompassing all those points. In the meantime, do we agree not to make any further recommendations in relation to the regulations?

Karen Gillon: I agree, but I think that we cannot allow the submission that we have received from RSPB Scotland to go without comment. I would be grateful for your guidance on when you think that comment would be appropriate.

The Convener: All members have a copy of the submission, and any member can raise the issue.

Karen Gillon: I will raise it briefly. It appears from the map—if the map is accurate—that the least favoured areas—

The Convener: It is not a public paper yet because we received it so late.

Karen Gillon: Okay. We have in front of us a map from RSPB Scotland that suggests—I am not in a position to agree or disagree—that the least favoured areas of Scotland, as most of us around the table would understand them, receive least from the less favoured area support scheme. Therefore, there is some merit in the suggestion that we should consider the matter in more detail in the year ahead. Instead of considering only the statutory instrument, let us look at what the scheme does, what it is supposed to do and whether it is delivering support to those areas. We could put that in our work programme.

The Convener: I suggest that we include that for discussion at our meeting on 19 December, under the heading of our future work programme. That is a helpful suggestion.

John Scott: Can I just make the point, convener—

The Convener: Well—

John Scott: If you would rather that I did not, I will not.

The Convener: It is just that, if we are going to have a longer discussion about the issue, I do not want us to get too bogged down in it now. The discussion now is about this particular statutory instrument.

John Scott: There is an historical basis for the payments being made at the current levels in those areas.

Karen Gillon: Exactly.

John Scott: It is still relevant today.

The Convener: Does the committee agree not to make any further recommendations in relation to the regulations?

Members indicated agreement.

**Import and Export Restrictions
(Foot-and-Mouth Disease) (Scotland)
(No 5) Regulations 2007 (SSI 2007/473)**

**Pesticides (Maximum Residue Levels
in Crops, Food and Feeding Stuffs)
(Scotland) Amendment (No 3)
Regulations 2007 (SSI 2007/481)**

The Convener: Do members have any comments or concerns on the other two sets of regulations? No motions to annul have been lodged and no concerns have been raised in advance with the clerks. Does anybody have any comment to make on them?

Members: No.

The Convener: Are we agreed not to make any recommendations in relation to SSI 2007/473 and SSI 2007/481?

Members indicated agreement.

The Convener: Thank you. We have now fallen eight minutes short. While we are on the general issue of subordinate legislation, before I suspend the meeting until 11.00, there is an opportunity to have a few minutes' discussion about subordinate legislation, statutory instruments and general issues to do with timescales and things. Does John Scott want to say anything while we are still on this agenda item?

John Scott: No. Not at the moment.

The Convener: Is there anything that anybody else wants to raise at this point, before I suspend the meeting until 11.00?

Members: No.

10:52

Meeting suspended.

11:00

On resuming—

Fisheries Council

The Convener: Item 6 is the first in a series of oral evidence sessions that will take place in advance of the December fisheries council meeting. At our next meeting on 21 November we will hear views from the Fisheries Research Services, and on 5 December we will hear from the Cabinet Secretary for Rural Affairs and the Environment.

Today's witnesses have provided us with written submissions—papers 14 and 15—and we also have a Scottish Parliament information centre briefing on fishing quotas, for which I thank Tom Edwards.

I welcome Dr Euan Dunn, who is the head of marine policy for RSPB Scotland, Mark Ruskell, who is the policy officer for RSPB Scotland—the committee also welcomes him as a former colleague—and Helen McLachlan, who is the marine policy officer of WWF Scotland. We will hear evidence from the Scottish Fishermen's Federation immediately after the first panel. If the members of the first panel wish it, I will give them a brief opportunity to respond to what they hear during our discussion with the second panel.

RSPB Scotland and WWF Scotland have made a combined submission. I understand that Mark Ruskell will make an opening statement of no more than five minutes.

Mark Ruskell (RSPB Scotland): Thank you, convener. It is nice to have an opportunity to get back in the *Official Report*.

You have introduced my colleagues, Dr Euan Dunn and Helen McLachlan. I should point out that Helen McLachlan and I sit on the north-western waters regional advisory council—one of the bodies that were set up under the common fisheries policy to engage the fisheries community in debates around emerging European Commission policy—and that Dr Euan Dunn sits on the north sea regional advisory council. Both my colleagues have many years' experience of working with the fishing industry, Governments and the Commission.

The picture that we have this year of the state of our stocks and the state of the politics that surrounds them is similar to the picture that we have had in previous years. The International Council for the Exploration of the Sea is, once again, recommending cuts in the total allowable catch for mackerel, whiting and haddock. It recommends a zero catch for cod off the west of Scotland and in the Irish Sea.

It is perhaps predictable that during the negotiations in the weeks ahead, the member states and the Commission will overshoot the advice of ICES. At best, that will delay recovery of some of our key stocks and could, at worst, lead to their continuing decline.

Against that negative picture, however, there have been two positive changes this year, particularly in relation to cod. The first is that there is a small sign of recovery in cod stocks in the North Sea. The 2005 year class of cod is not particularly big compared to the year classes that we saw in the early 1990s, but it is the biggest that we have seen in the past six years, which offers a small glimmer of hope. We have a golden opportunity to build the health of the stock by leaving it in the sea and allowing it to continue to spawn and reproduce. We would see that as an investment in that stock. If we protect that investment, the fisheries industry will be able to reap a good return. What we should not do is fish out that stock and gamble away that investment.

ICES has recommended a very low rate of removals for North Sea cod this year—both for cod that is caught and landed and for cod that is caught and discarded. It equates to less than half of what was caught in 2006, so ICES is recommending a reduction for North Sea cod. Where the scientific analysis is starting to move a little closer towards the advice that the fishing industry wants to see, the industry itself should move to meet the science. It is important not to undermine ICES's advice for North Sea cod and that that advice be accepted.

The second positive change that we have seen this year is an emerging consensus about the tools that we need to put in place to avoid catching cod and keep it in the sea where it can reproduce and rebuild the stock. For example, pilot projects are currently under way in Scotland for real-time closures. Where juvenile species aggregations are found, they are reported and an area can be closed for 21 days. Gear selectivity is also being piloted and square-mesh panels are being built into gear to enable cod to escape. On-board observers are also being introduced under pilot schemes, which is a positive development that enables us to gather more information and to verify what is happening, particularly with regard to discards.

All those initiatives could be brought together into a strong package that will allow cod to recover. At the moment, however, we have only pilot projects; there are only two on-board observers operating on boats, and there is no international agreement over real-time closures. We have not yet proposed a bycatch quota in this year's talks and we do not have a mandatory requirement for gear selectivity, so it is important

that Parliament and the Scottish Government work with the tools that we have to ensure that we have a positive package for the future to enable cod recovery.

Mike Rumbles: I thank Mark Ruskell for his comments. He made a plea for us not to ignore ICES's scientific advice—my question is focused on that advice. ICES has said for the past six years that there should be no catch for cod, and what has happened is that ministers have said, "Okay—we'll have a limited catch," so that advice has not been followed. I am struggling to understand the situation, because ICES's advice is now that cod stocks are recovering and that there can be a minimal catch of cod. Logic dictates to me that somebody has got things wrong. Has ICES undermined itself?

Helen McLachlan (WWF Scotland): ICES has not undermined itself. It was right in recent years to offer the advice that it offered, because we have to look at the issue in context. Cod are still at critically low levels in the North Sea, and this year's advice reflects the biomass chart, which shows high numbers in the 1960s, 1970s and 1980s, and the severe depletion and bottoming out that occurred after that. The chart is now just starting to show an upward turn, so ICES has been right to give advice as it has done in recent years. It is as a result of that advice and of the strict measures that were put in place that we are now starting to see returns for restricted effort.

ICES has made the important point that all the advice refers to quotas that are based on landings, which are not a reflection of what is happening in the fishery. In the context of the fishery, we should be talking about removals, and what ICES has said this year is that we need to reflect total removals from the seas, which will be a challenge.

Mike Rumbles: As a layperson, I am struggling to understand the logic of the advice. The advice for six years was not to fish any cod; now, as you said, cod stocks seem to be recovering, but the advice is that it is okay to fish cod, I struggle with the efficacy of that advice. Can anyone else say anything to enlighten me?

Dr Euan Dunn (RSPB Scotland): One of the key points relates to the crucial 2005 recruitment year, which Mark Ruskell mentioned in his introductory remarks. It has taken some time, because of the uncertainty that surrounds fisheries science, to determine how strong that year class is. Only now, after ICES has done successive surveys, are the figures beginning to show that the year class is stronger than we had thought over the past two or three years, which has enabled ICES to shift its position slightly. That is one of the crucial changes.

The Convener: Des McNulty and Peter Peacock want to comment. Is Peter's question on this point?

Peter Peacock: Yes.

The Convener: Would Des McNulty also like to come in on this point?

Des McNulty: No.

Peter Peacock: My understanding is that although ICES is saying that there could be a limited catch, that limited catch would still represent less than half of what is being caught, so in practice it is recommending a significant cut. Is that correct?

Mark Ruskell: Absolutely. ICES recommends a level of catch next year that is half what was caught last year, which constitutes a serious cut.

Mike Rumbles: I am even more confused now. Given that over the past six years ICES has said, "No fishing at all" and ministers have allowed all that fishing of cod to take place, how come ICES is now saying, "Actually, half of that fishing effort is okay after all." Has ICES been wrong for the past six years?

The Convener: Hold on a second—I do not want a free-for-all. Apart from anything else, it is not fair on the official reporters.

Mike Rumbles has asked a question—I would like to get a response to that. Des McNulty has indicated that he would like to speak: is it on this issue?

Des McNulty: Yes.

The Convener: I ask you to respond to Mike Rumbles, then Des McNulty will come in.

Helen McLachlan: ICES has been giving advice in response to what it has been asked and in response to a plan for recovery of cod stocks. Its advice has been that if we want recovery of cod in the North Sea, the most appropriate course of action will be to have zero catches in the North Sea. From a scientific perspective, it is clear what has to happen. From a socioeconomic perspective, which is where the Commission proposals come in, that was not acceptable because it would mean shutting down the North Sea fisheries, as the associated fisheries that catch cod would have to close down. Thus, the Commission and the Council—representatives of the member states—decided to allocate a small quota to allow the fisheries to stay in business. Over that time, effort was brought down significantly—that was a key factor, in addition to the quota—which means that fishing mortality has decreased over the period, which is important in allowing the population to recover.

After six years of zero quotas, we have seen the 2005 year class come through, as Euan Dunn

said; we are starting to see some evidence of that on the ground. The advice from ICES is that classes must be allowed to survive through to maturity before we start to see a healthier population. It is as a result of the zero quota recommendations that appropriate management measures were put into place, which will allow some sort of recovery.

The Convener: Can we get clarification? ICES may have recommended zero quotas, but in fact we did not have zero quotas. The point is that the cod fisheries have started to recover without the application in practice of zero quotas. That is the nub of the issue. We seek an explanation of how that has happened. Is your contention that if we had had absolute zero quotas, the stocks would have recovered a lot faster?

Helen McLachlan *indicated agreement.*

The Convener: Modest recovery has taken place, however, on the basis of what we have done so far. So, in a sense both sides are right—is that correct?

11:15

Dr Dunn: The one caveat to what you correctly say is that there is a paradigm shift in what ICES is recommending this year from the advice that it has given hitherto: it is saying that this year's allocation should be based not just on what is landed on deck, but on what is discarded. That is critical. ICES has not previously recommended that total removals should be on the table. That makes a big difference. In previous years, recommending a zero catch did not take account of fish that was discarded. In some ways, ICES is recommending a quite draconian measure this year, which is what we need to talk to.

Des McNulty: I have two questions. My first is about the availability of information. Does a map exist that shows what ICES recommended, what was agreed and what then happened? Is there mapping of scientific advice, political decisions and outcomes over the period? It would help everybody if that information were available. I do not know whether we could get it from you or whether you can point to someone else from whom it could be available. A document going back 10 years that set out that information and any other relevant information would be useful to everyone.

John Scott: To some extent—

The Convener: I remind committee members not to make ad hoc comments. There is an issue for the official reporters that we need to address—if members want to speak, they should speak through me.

Some of the information that Des McNulty asks for is in the SPICe paper. Is it possible to provide that information in written form? It is difficult to go through 10 years' worth of statistics in an oral evidence session.

Helen McLachlan: Yes. The European Commission has identified as a major problem for management of our fisheries the fact that the discrepancy between what ICES recommended and the final quota recommendation has been significant in undermining the sustainability—

The Convener: Can you undertake to provide us with that information in the timescale for our consideration of the issue?

Helen McLachlan: Yes.

The Convener: Thank you.

Des McNulty: How do you see the TAC regime contributing to the increased throwing away of fish that are landed from the sea? What practical steps would you have taken to reduce discards or eliminate them? Can you identify how that would work not only in scientific terms, but in legal and legislative terms?

Helen McLachlan: In taking them from the sea, there are two places where fish might end up. They are either landed because there is quota for them, or they are discarded because it is not desirable to land them: they might be non-marketable or undersize, or there might not be quota for them. Regardless of TACs and quotas, the same amount of fish will be taken year on year if the boats use the same gear and it is business as usual in the fishery.

People can change how they fish by fishing in different areas and avoiding areas where there are high numbers of juveniles, or we can temporarily close areas in which fish come to spawn each year. Where fishing takes place is very important, and the level of discards can be immediately reduced by shifting those areas.

It is also possible to drastically improve the selectivity of gear by using different gear configurations. In the white-fish fleet, for example, a separator trawl can be used to catch haddock and whiting, which swim upwards. That avoids catching cod, which swim downwards and so escape that way. In the nephrops fishery, things such as separator grids can be used—that allows white fish out of the net but retains the nephrops. There are lots of gear developments that can improve selectivity, but unfortunately their use is not standard practice in the fleets that are impacting on cod. Cod is being caught in a range of associated fisheries and we are not doing as much as we could in terms of selectivity.

Des McNulty: I am sorry to keep coming back to numbers, but they are important. Is it possible

for you—again, not today—to give the committee a sense of the economically useful landed catch versus the tonnage that is discarded? Further, could you give us an analysis of how the steps that you have talked about—such as changing the tackle or how fishing is organised—could change the balance between the economically useful catch and the discarded catch? That might give us a framework for considering the problem, which we have not had up to now.

Helen McLachlan: That would be difficult to do in one piece of documentation. We are talking about a lot of fisheries, even if we are only addressing the situation in the North Sea. However, we can give the committee an idea of landed catch in the fishery and the discard levels. I can give you an example from the otter trawl. In 2005, in the small-mesh fishery, which is generally considered to be a nephrops fishery, 1,651 tonnes were landed and 1,007 tonnes were discarded. The discard is 69 per cent of the total in terms of numbers and 37.9 per cent in terms of weight, which suggest that a lot of small fish are being caught in that fishery. Introduction of a 120mm square-mesh panel would mean that a lot of those juvenile fish would escape and the proportion of landings to discards would be significantly higher. That has been demonstrated in the trials that Fisheries Research Services has been undertaking.

Des McNulty: Is there anywhere in the world where people have managed to change the ratio between the landed catch and the discard catch? Perhaps New Zealand or the United States? Are there any positive examples that we in Scotland could learn from?

Dr Dunn: The system in the United States is by no means perfect, but many measures have been pioneered there that have not yet been trialled in United Kingdom or Scottish waters. For example, in their equivalent of the nephrops fishery—the langoustine fishery—fishing is sanctioned only in areas in which it will not be part of a mixed fishery with white fish, which is a clear example of good spatial separation. That is not always possible in a fishery that is as mixed as the North Sea, but it shows that inventive measures can help, especially with the assistance of incentives.

We are in the thick of negotiations around how the European fisheries fund will be allocated across the devolved countries in the coming years. The European fisheries fund has enormous power to incentivise gear selectivity in the direction that we favour. At the same time, we must make it more costly to fish unselectively, which could be done through the financing criteria that will be used for changes in fishing gear in the future. There is a lot of power to change how people fish that has not yet been used.

Bill Wilson: My question relates to the biomass of the 2005 cohort. It seemed to me that you were suggesting that the estimates of the biomass of the 2005 cohort had altered over time. Is that a technical issue relating to standard errors of measurement in the move from 2005 to 2007 for that cohort? If so, would such errors affect the advice that you are giving? You might be getting reduced standard errors and therefore more precise estimates of the biomass of that cohort.

Helen McLachlan: That question should be put to the scientists when they appear before the committee next week.

Dr Dunn: ICES's biggest problem with all these data—for the 2005 cohort no less than the others—is that it has been extremely challenging to estimate the level of unquantified removals, be that through discarding, through misreporting or through natural mortality, which is difficult to account for. For ICES, that has been the black hole in the cod story, as it has been for the other white-fish fisheries that it has to deal with.

Part of the way of getting to the heart of the issue is to use observer programmes, which is a strong element of the strategy that the non-governmental organisations endorse. We have to begin to take the best practice from other parts of the world where observer programmes are routine—if a fishing vessel says that it discards a certain amount, it must prove it, so an observer is put on board the vessel to get the data. The regional advisory councils are now becoming good ground for disseminating, using and harnessing the power of fishermen's information. If that practice is coupled with a powerful observer programme, it can give ICES the sort of information that it needs to crunch the figures in a way that will benefit the fishing industry in the long run.

Karen Gillon: As a layperson, I find it perverse that we discard so much when we have low cod stocks, and that our fishing communities are struggling but we are still killing lots of cod. What is your analysis of why the new technical gear that is available is not being used as widely as it could be in the Scottish fleet? On factoring of effort, my understanding from reading some of the papers is that the mortality rate increases during spawning. Could we factor effort more appropriately, so that there is an incentive for people not to fish during spawning times?

Helen McLachlan: On the second question, that is certainly one of the things that we have been recommending, and there is general agreement among industry managers and in Government that we need to start adopting that approach. If we know where the fish are during spawning periods, we should leave the area alone and fish elsewhere. That seems to make clear sense.

Similarly, we recommend real-time closures where juvenile aggregations are indicated. We should avoid those areas, so that we do not catch the fish in the first instance.

Your first question, on why the industry is not keen to adopt some measures, would probably best be put to Bertie Armstrong. Historically, there has sometimes been an economic issue. Depending on the amount of regearing and reconfiguration that has been required, costs can be significant, but for measures such as the inclusion of square-mesh panels, we are talking about an investment of around £300, but what is reaped as a result of that investment will be significantly more than that. Across the industry, there are people who are more enlightened and more inclined to adopt conservation measures than others—we should, by incentives, encourage those people to lead the way.

Karen Gillon: Is there a case for statutory measures on gear that would provide the fishermen with an incentive to change gear over a period? In turn, I assume, they would be able to catch more cod in future years, because the recovery plan would have allowed the little fish to get bigger. I am just trying to look at the matter from a layperson's point of view.

11:30

Dr Dunn: There is a case for statutory measures. A lot of the operational element has hitherto been based on voluntary uptake. The Scottish demersal fishing fleet has been in the vanguard of promoting better selectivity and has had good uptake within its fleet—I am sure that you will hear that from the next witness. However, we are talking about a mixed fishery in the North Sea—a sort of Rubik's cube of different fleets and fish stocks mixing in different areas. Unfortunately, some of our European competitors are not as compliant as we are with the momentum for better selectivity.

We have reached a critical stage. Let us not beat about the bush: most of our fish stocks are still at historically low levels. In the latest review of the common fisheries policy by Michael Sissenwine and David Symes, the common fisheries policy is seen as performing among the worst of its kind on the planet. Anyone looking at us from another country where they use best practice would say that now is the time to introduce statutory measures.

The Convener: Jamie Hepburn has a question. We will then have explored the general issue sufficiently and will move on to something else.

Jamie Hepburn: I want to focus on improved gear selectivity. Some of the questions that I wanted to ask have been answered already. I was

going to ask how the gear works, but Helen McLachlan has answered that—in so far as any of us could understand how it works. The discussion has also touched on where the gear is used. However, it has been said that the cost of the gear can be significant. What does the selective gear cost in comparison with the nets and gear that are being used just now? Where such gear is used, who meets the cost? Is there a form of subsidy? As well as suggesting statutory measures, you have talked about incentivising the use of such gear and I thought that you hinted that some form of subsidy would be useful. Where the gear is used, what was the impetus for its introduction? Did the fishermen themselves decide to use the gear, or was it a matter of statute? Was it, essentially, forced on them?

Helen McLachlan: Let us take the Scottish situation as an example. Something called the coverless trawl is being trialled up in the north-west of Scotland for the nephrops fishery. A coverless trawl means that, instead of having a net coming up off the sea bed, that net is taken away. The nephrops still go into a net at the cod end, but the white fish, which naturally swim upwards, do not hit a net and they come out. That is a good selectivity measure, which fishermen up in the north-west are trialling at the minute. One of the incentives for that is that they want their nephrops to be Marine Stewardship Council certified, to demonstrate the sustainability of their fishery. The fishermen are keen to be able to promote their product on the international market as a Marine Stewardship Council certified Scottish langoustine product. A potential barrier to certification is nephrops gear that is not selective, so that is an incentive for fishermen to change the gear. That may act as an incentive in other fisheries, too.

A coverless trawl costs £5,000 as an investment. I do not have the figures for the landings of nephrops, but it is a high-quality product for the high end of the market, so the fishermen probably get good prices for it. Support for funding the coverless trawls will come from the forthcoming replacement for the current financial instrument for fisheries guidance structural funds—the new European fisheries fund—which explicitly allows for the fund to be used for the purchase and piloting of selective gear. Structural funds are definitely available to support fishermen who move to using selective gear, and there is possibly also member state funding so, for example, the Scottish Government could support that as well.

The Convener: Dr Dunn, you referred to a paper that we do not have before us. I wonder if, after the meeting, you could supply the reference to the clerks, so that it can be circulated to committee members.

I think that we have exhausted that general area.

Mark Ruskell: If I may add a point, convener, there is a real opportunity in the December talks to put mandatory gear selectivity on to the agenda. I hope that the Scottish Government, and indeed the Parliament, would consider that. There is a clear economic advantage to having a mandatory measure, in that it applies to everyone within the fishery, which creates a level playing field economically. That is important, and it can move us forward. Unfortunately, the voluntary measures have not yet delivered the kind of recovery that we all expected.

John Scott: If I could make a transition from that subject to another one, I presume that you would essentially be in favour of the EU's kilowatt days proposals and of reducing the number of categories of regulated fishing gear. We are talking utterly about cod, but there are maximum sustainable yields for all the other species, too. There are 33 EU stocks, only three of which are being fished within the maximum sustainable yield. I would like you to discuss that in relation to real-time closures. How do you see those closures developing? How do you see the pilot scheme expanding? Should it expand? How many boats are currently involved? What is the potential for the uptake of such schemes in other member states?

Dr Dunn: There were quite a few things in there. On your last point, the real-time closures scheme is a worthy initiative by Scottish fishermen. That is just the sort of thing that people said was impossible in the North Sea a few years ago, because it was too difficult a fishery to apply it to, compared with Norwegian, Icelandic or Faroese waters. Let us have the trial, however, let it be well monitored and let us see what comes out of it. That can be done through the processes of the regional advisory councils, which can act as strong drivers for change. If the right feedback comes through the RACs to the Commission, such measures could begin to be applied more widely. It is an important trial; it is a significant development. It has a lot of potential, and it should be taken seriously.

Helen McLachlan: We know that the Scottish Government is in discussion with the Danes, who are another important fleet sector in this and other fisheries. On the point about other species, we must not forget that one of the major commitments under the current CFP is to the progressive implementation of ecosystem-based fisheries management. That might sound like a confusing term to get to grips with, but the fundamentals are: stop catching juveniles, stop fishing on spawning stocks, be more selective and look at your impact on discard levels of both target and non-target species.

Those are some basic ideas that we should consider implementing across fleets and across all the stocks that we are fishing, not only cod. If we can get cod right, however, the knock-on effect for other fisheries could be very positive. That is the challenge at the moment.

The Convener: No other members wish to speak, and I am conscious that we have indicated to the panel before us that they may come back briefly after the evidence from the Scottish Fishermen's Federation. I thank the three witnesses for now, and I ask them to move into the public seats. I invite Bertie Armstrong, chief executive of the Scottish Fishermen's Federation, to come forward.

Welcome to the committee, Mr Armstrong. You may make a brief opening statement; it should last no more than five minutes.

Bertie Armstrong (Scottish Fishermen's Federation): I am grateful for the opportunity to come to the committee. It is appropriate that parliamentarians understand the process that sets the raw material for the fishing industry, participate in the decision making and, I hope—you would expect me to say this—support the fishing industry's position.

You have received my written submission. You asked what the Scottish Fishermen's Federation is and what our role is in the process. We are a broad-based trade association that can bring a mandated opinion from the fishing industry to discussions with the Scottish Government, with our own scientists, with Whitehall and with Brussels. We can look for innovation and take it forward with the voice of the industry, rather than individuals.

You also asked for our view on the ICES advice on principal target stocks. We referred mostly to cod, which is not the whole picture. There were a couple of incisive questions about the ICES advice. I welcome the discussion because it sheds some light on what must be a puzzle for the general population. There has been a lot of superficiality about the debate over the years in the media, because, by necessity, the discussion has to be simple—it therefore becomes puzzling.

I will make a brief analogy. If you ask an environmental scientist the simple question of how to combat carbon fuel burning and global warming, the answer is dead simple. The pure scientific advice is to shut down world transport and world electricity generation. However, as that is not remotely sensible there has to be another path. That analogy can be applied to the ICES advice. The answer to how we do it is dead easy: stop fishing. However, we have to find another path. The recovery has happened as a result of the political decisions and what has eventually been

agreed, and there will be a big discussion at the December fisheries council meeting about the cod total allowable catch. In an effort to find a middle path, it has been necessary for the industry to work closely with my colleagues who gave evidence earlier, with the scientists and with the Government—and we have done all year—to produce a package of measures that says two things. First, the council must not use the TAC, which is a blunt instrument, as bluntly as it has in the past. Our plea is that it must be raised by 15 per cent. I know that that is now the EU position. The intention is not that we should catch another fish, but that we should discard less. At the same time, we would put in place a range of measures that will cause cod avoidance. That is preferable to the blunt instrument of total allowable catch, which is now so small that regulatory discards will happen. The second thing is days at sea, which will be a big part of our December council objectives. The industry needs two things: sustainable amounts of fish to catch and enough time in which to catch them sustainably.

The decision about mackerel stocks has now been made in talks with Norway and with the Faroe Islands. The industry has accepted a 9 per cent reduction in the total allowable catch for mackerel. I am happy to report, because the science by necessity always lags a little, that the industry at sea is seeing a much greater abundance of mackerel—rather as it did with cod—than the science tends to indicate. We hope that the science will catch up next year.

We have discussed North Sea cod to death. It is important to recognise that most of the range of measures that we have discussed came from the industry and represents innovation from within the industry. Everyone needs to recognise that the industry is now a great deal different from what it was in the 1960s, 70s and 80s, a period that Helen McLachlan mentioned with regard to the abundance of stocks that used to exist. At that time, we did not know half as much as we know now. Everybody—including the Governments of Europe—thought that those large fish stocks were stable, so building programmes had Government encouragement. We got that badly wrong. The thistle has been grasped here with two big decommissioning programmes and the present-day Scottish fishing fleet is a shadow of, or very much smaller than, its former self. It is about the right size for the catching opportunity that now exists. Provided that we continue to do what we have done—to innovate and look to meet the aims of sustainability—we have a future.

11:45

Des McNulty: In line with the questions that I asked the previous panel, I am interested in the

relationship between the TAC system, bycatch and discards. There seems to be an unacceptable imbalance between the marketable fish that are caught and the number that are discarded because they are uneconomic or do not come through in the right way.

How much information do we have about that? Do we have crude numbers? Has an analysis broken down the balance between discards and the TAC for the fishery's different elements? Is our information as good as it needs to be to manage the situation sustainably? How does the TAC system operate perversely by increasing the potential discard?

Bertie Armstrong: The problem with providing information in the way that you described is that the information is complex. We have a mixed fishery in the North Sea and, to a lesser extent, on the west coast. We cannot catch one species without catching another. All the species are part of the same ecosystem and they eat one another. When we talk about the maximum sustainable yield and reflect on the numbers of cod in the 1960s, 70s and 80s, we find that the nephrops stock then was relatively tiny, because cod eat that stock. When cod return, we will find that the nephrops stock reduces. We will have to guard against people saying that that is the result of overfishing, because it probably will not be.

The information is available, but it is incredibly complicated. No direct connection exists between the two elements, except when the TAC is very small and the management aim is a very small catch of fish. If those fish exist and they are part of a mixed fishery, we will de facto have large discards.

The answer is movement in the right direction, which is to try to avoid cod, for instance. That is what we are doing. When we have a bigger stock, I hope that the system will automatically ease itself. The TAC system becomes perverse and achieves the reverse of its aim when stock levels are very low. When the stock recovers, that will help.

We are moving towards long-term management plans—that has been achieved with mackerel and haddock—under which the stock levels roughly equate to the maximum sustainable yield. In that situation, adjustments need not be emergency responses; they can be small. The widely accepted tolerance is 15 per cent, so we can have no more than a 15 per cent downturn or upturn to make the small adjustments that are needed. That is the direction in which we hope that we are moving.

There are no easy answers in a mixed fishery. The overall requirement is movement in the right direction. With cod, for instance, we have that.

Des McNulty: What practical steps can we take to reduce discarding? It is in everybody's interests to reduce that as much as possible. A linked question is to what extent the mechanics of the management regime lead to discarding. That is not entirely clear to me and possibly other committee members.

Bertie Armstrong: We have discussed what we can do about discarding. In the short term, we can put in technical measures. During the past decade or so there has been a programme of research on panels of one sort or another—coverless trawls have been mentioned—and innovations from America have yet to be tried. Such measures will help, as will right-sizing the industry, which will make a lot of the problems go away over time. The Scots industry is now right-sized, but that is not the case in other parts of Europe.

When regulation is perverse, we must try to change attitudes. It is interesting that real-time closures, which were an industry initiative, are voluntary. The issue was discussed at some length on Friday with the Scottish Government and scientists, and we were delighted to hear that there is strong evidence from the vessel monitoring service run by the Scottish Fisheries Protection Agency that fishermen are moving away from aggregations of cod. Even when there is no closure, fishermen come across aggregations that would lead to a catch beyond their available quota, but they are moving away from such areas.

Euan Dunn mentioned best practice elsewhere and Des McNulty asked about that. Norway has a discard ban, in theory, and although no one, including the Norwegian authorities, claims that there is no discarding in Norway, the approach has managed to change attitudes in the fishery. People will be moved away—statutorily—from aggregations, but they try to avoid them anyway. We are taking the first steps towards having such an attitude in our industry and, as other panel members said, we need to ensure that the attitude is internationalised—among our Danish friends in the langoustine fishery, for instance.

Peter Peacock: You are looking forward to the negotiations in December—maybe “looking forward” is not the right phrase. What is the bottom line for the industry on the different species that you mentioned? What must the Cabinet Secretary for Rural Affairs and the Environment bring back from the negotiations if the industry in its current size is to prosper? You hinted at some of that.

I am particularly interested in your view on haddock, whiting, herring and cod. If I understood you correctly, you said that the UK position on cod that is emerging is for a 15 per cent increase in the TAC, to allow you to reduce discards and bring more cod to the market. You also said that you

envisage a long-term management process for haddock and that in essence you agree with the UK position in that regard. Do you agree with the UK Government's emerging positions on cod and other species? Are those positions in line with your bottom line?

Bertie Armstrong: Your question hits the nail on the head and I will respond to it easily and with pleasure. The process is iterative, because we genuinely do not ignore the signs or ask for ridiculous things—asking for ridiculous things is a luxury, because it is easy, but if we do that we will fail.

I will run through the principal target stocks. The position on mackerel is decided at the meeting of the coastal states, because the stock is jointly managed with Norway. The decision has been made; there will be a 9 per cent reduction in the catch. To cut a long story short, the decision is in accordance with the science and has been accepted. Divisions of exactly where the quota will go remain to be done, because Russia is a player, too, but the decision reflects the UK and European position.

On North Sea cod, we are not just arguing for more fish, which would be ridiculous—you might recall that the industry sometimes used to say, "Give us more fish and leave us alone." We are asking to be allowed to reduce discards by increasing the TAC by 15 per cent, and we are asking for a package of measures, which will be accepted by the Commission and, I presume, the December fisheries council, only if it makes realistic sense and will reduce cod mortality. That is what we want. In practical terms, that position would translate into a sensible agreement on days at sea.

Peter Peacock: Is that likely to be the UK position?

Bertie Armstrong: I understand that that is the UK position, which is being discussed with the Scottish Government and the cabinet secretary.

North Sea haddock is another jointly-managed stock and is already at a level that equates to maximum sustainable yield. It is subject to a long-term plan. There is likely to be a 15 per cent downturn, in accordance with the science. The UK and EU negotiating position is that that will allow there to be some banking and borrowing with that stock, because it is subject to a long-term plan. The period of one year is relatively arbitrary in relation to a big stock and it might be possible to achieve the aim in a longer period and do some banking and borrowing. This year, for instance, we will not catch all of our haddock quota, because of the weather and the restricted days at sea. Under those circumstances, if the biology of the stock will stand it, why not allow us to bank a little bit of

haddock for next year? We are not talking about large percentages.

North Sea herring is important for us as the biomass is still large. However, for five years in a row, recruitment has been very small, disappointingly. We do not understand why that has been. Although that is not the fault of the fishery, it will certainly require there to be a downturn in fishing. In my briefing paper, I mistakenly say that the scientific advice is for a cut in TAC of around 55 per cent. However, the pelagic industry pointed out to me with some vigour that the actual figure is 49 per cent.

The pelagic regional advisory council has formulated a long-term plan that involves a lesser cut, in the order of 35 per cent. However, it pins it at that level for a period of three years and allows no increases. That would give the industry some stability, and that is the UK and EU position that is being advanced at the Norway talks as we speak.

North Sea whiting is another jointly managed stock. The science is uncertain in this area, but it recommends an extremely large downturn of 80 per cent. The EU and UK position is that, given the uncertainty of the science, such a large reduction is not appropriate and that there should be a lesser reduction. However, the Scottish Government is leaving this issue to England, because North Sea whiting is largely an English-caught stock.

In relation to the west of Scotland demersal stocks—cod, haddock and whiting—the picture is gloomy. The UK position is that we should look at the science and consider what can be done. The mainstay stock for the west coast—it is important for the North Sea as well—is nephrops. However, there is no nephrops science this year, so we expect that quota to remain the same next year.

Underlying everything else in the cod recovery programme is effort control, which includes the issue of days at sea. It affects specifically the white-fish industry and the nephrops fisheries. Our major fear is that there will be unacceptably draconian measures in relation to effort control this year. We have therefore been trying to put our house in order and develop a package of measures for cod avoidance. We hope that the fact that we have other ways of reducing cod mortality will mean that we are given a reasonable settlement on days at sea. That is the agreed position that is being taken forward for Christmas time.

Peter Peacock: Am I correct in thinking that, with the exception of the days at sea issue, the industry and the UK Government are in accord and that there is no fundamental disagreement? Is it your perception that the UK Government is not entering the process with intentions that do not meet the expectations of the industry?

Bertie Armstrong: That is a good question. My perception at present is that we have neither overt nor—if we regard the matter suspiciously—hidden intents to push another agenda or to ignore the best interests of the Scottish fleet. Nobody round the table does not appreciate that the Scottish fleet forms the bulk of the UK fleet. That is not a north-south arm-wrestling job, it is just a satellite view of the actuality. By necessity, the Scottish priorities must form a large bulk of the English priorities.

12:00

Peter Peacock: I was intrigued by your written evidence about the common fisheries policy. In essence, you say that it does not work properly and that it has all sorts of contradictions and difficulties. The evidence from the previous panel suggested the same thing. Nonetheless, you say that if we did away with the common fisheries policy tomorrow we would have to create a system that was not dissimilar to it, because we must manage what are on the face of it sometimes irreconcilable pressures, such as the mixed fishery in the North Sea and the fact that other fishing fleets have access to a shared European resource. What is your conclusion on that issue? Is it that we should stick with the current system and try to make it work better because fundamental reform is probably not practical or realistic in the short to medium term, or do you advocate something entirely different from the common fisheries policy?

Bertie Armstrong: Thank you for the question—it is a good one. We must stick within the bounds of fighting for realistic opportunities in the shorter term, which, *de facto*, will be within the CFP. I am not here to defend the CFP and no one will, including the two professors who inspected it on behalf of the Commission and who wrote the interesting paper that you will receive. The CFP has failed in almost all departments. However, I reiterate that we will have to get round a table and, somehow, work the matter out.

Reform is moving in the correct direction, which is that of regionalisation. The CFP is described as a top-down, command-and-control affair in which big decisions are made centrally and imposed on those whom they affect. Regionalisation will, I hope, lead to a shift, in that decision making will come by way of innovation and thought from the stakeholders, and it will then be offered to the Commission as guiding principles. That is the change that we would like, but it would be a big old shift.

At present, the regional advisory councils do not make management decisions—the clue is in the title. Provided that the RACs continue to offer coherent, sensible advice and do not revert to

saying, “More fish—leave me alone,” they should become more powerful. The shift that we would like is perhaps in the form of transference of management responsibility to the regions, because that is the level at which people first become aware of where the problems are and how to solve them.

Karen Gillon: I return to the questions that I asked the previous panel. I have two issues. One is how we reduce our mortality rate—I understand that it has gone down significantly since 1999, but there is some way to go. It seems perverse to me, as a layperson, that we allow dead fish to be discarded while our fishing communities are struggling. We must work out a way to balance the two issues. What are your views on the factoring of effort and how it could be progressed further? It seems sensible to allow spawning to take place by moving away from it.

The other issue is gear. I asked the previous panel whether there is a need for statutory provision on new gear. If such provision were introduced, would there be benefit in making available a financial incentive to encourage people to make the shift? What contribution can other member states make to reducing mortality rates? I know that the mesh size that we have been using has helped to reduce the mortality rate, but there is an issue in that other nations do not use that size. Could the UK push that matter during the negotiations to ensure that we all play on a level playing field and that Scotland and the rest of the UK are not disadvantaged?

Bertie Armstrong: Those are good questions.

We have already talked about the package of measures for reducing cod mortality. The extension of that package of measures, which involves real-time closures, to spawning areas is under discussion. We have already moved from recommending that just undersized fish be avoided to recommending that juvenile fish, which are a bigger range of fish, be avoided. On Friday, someone made the bright suggestion that the measure be extended to cover spawning areas, so what you have suggested has already been discussed.

Our problem is that it is now 7 November—there is no chance of any of those proposals resulting in hard statutory requirements in this year's set of regulations. However, they are a movement in the right direction. We have been telling the Commission what we have been doing all year, so the chances of our proposals being put into the regulations are much greater. We hope that that will happen.

People have asked why we do not just make such measures statutory, because if they were the law everyone would have to follow them. In my

view, and in the view of the fishing industry, the best thing we can do is align incentive with management outcome, as Euan Dunn said. If we want to reduce cod mortality, we should incentivise people. That is not about providing subsidy, which tends to fall foul of competition rules and is a bit of a blunt instrument. If one can manage it, a much better way to proceed is to make fishermen want to take such action because, for example, they will get more days at sea. If a fisherman does not have to look for more days at sea because he has been allowed more days at sea because he has proved to the world, through an observer programme or the gathering of statistics, that he is doing better than he used to do, his operating costs will be reduced.

Putting such measures straight into statute could present a danger, given that there is a long history of unintended effects. What might look like a simple statutory measure can sometimes have perverse side-effects, so in our view it is best to align incentives with the management outcome of reducing cod mortality. We should reward fishermen for achieving that goal.

Your third question was about what other nations are doing. It is natural that we would say, "Not as much as us," but I think that that is a fair statement. The change in mesh size could certainly be put into the regulations. We have started to use 120mm mesh for white fish rather than the gear category of 100mm, so why should we not argue for everyone to use 120mm mesh? The French fishermen who work in the saith fishery, for example, would provide strong arguments for not doing that, but we should inspect those arguments and invite them to join us in reducing cod mortality voluntarily. I agree with the implication of your question, which is that that is what we should do.

John Scott: I want to ask you about the kilowatt days scheme, which the Scottish Fishermen's Federation says it is not in favour of. What alternatives does the SFF propose? How do you suggest we help whiting stocks to recover? We seem to have dealt almost exclusively with cod, but discussion of the maximum sustainable yields of the other species in the North Sea is important too.

Bertie Armstrong: It is not quite correct to say that the SFF is not in favour of kilowatt days; in fact, the initial suggestion came from the SFF's white-fish sector. A big debate is taking place on how the global imposition of a kilowatt days scheme would affect every fisheries sector. Members of the nephrops sector are scratching their heads hard as they examine the potential implications.

The general question whether it would be better to have a top-down imposition of days at sea by

Brussels or for Scotland to manage its own bucket is almost self-answering, but the devil is in the detail. The issue is how days at sea are managed and what framework Brussels places around the national bucket. For example, the white-fish fleet might find itself advantaged by a national arrangement because it would provide more flexibility and mean that cod avoidance could be targeted more properly as people would not be penalised through the use of the rather broad instrument whereby everyone gets a particular number of days at sea. However, the nephrops industry, which catches a great deal less cod, might find that all the justifiable headroom that it had with regard to effort is removed at a stroke, because you have imposed a set of regulations that were good for the goose but did not serve the gander so well.

It is not true to say that we disagree with the scheme; it is still under active discussion. Happily, it will not be imposed this year—that is nearly impossible because other member states have not done the work that we have done on the matter. The Scottish Government has been working on it for a while. The scheme will not be impossible because other member states will hold up their hands in horror and say that they are not ready for it. However, it is coming. I detect that the Commission is keen to divest itself of central control. It is best that we discuss the scheme and get used to the idea of it now, so that we are ready for its arrival. It has the potential to allow us to target and factor our fishing more precisely, but the devil is in the detail and we must ensure that there are not a lot of unintended effects.

John Scott: You said that regionalisation is the way forward. How do you see that concept developing?

Bertie Armstrong: It has already happened in that the rules under the CFP apply across whole gear categories—they apply equally on the east coast, the west coast, the southern North Sea, the eastern channel and the north of Shetland. The first step was regionalisation by way of the North Sea regional advisory council, the north western waters regional advisory council and the pelagic regional advisory council, to name the three that are most relevant to our fisheries.

A degree of regulation is regionalised. There is movement away from regulation that applies across great swathes of the industry—a blunt instrument—to regulation that might target our fisheries more specifically. Derogation is now used; extra fiddles are put into the regulations to aim them at a particular fishery. You have to know enough about the fisheries to know which fishery the regulation is aimed at it, but it is possible to scan the rules and see that a regulation is aimed at the French saith fishery or the Fladen Grounds

prawn fishery. We need to make the regulations more explicit in that regard.

Jamie Hepburn: I want to pick up on your answer to Karen Gillon's question about improved gear selectivity. I was glad to hear that the federation supports the use of such equipment, although if I picked you up right—correct me if I am wrong—you suggested that making use of such equipment statutory would fall foul of competition rules. It was clear from what you said that the federation would not be minded to support such a measure going on to the statute book. Supposing that it did, what would your organisation require to make that palatable? Karen Gillon was trying to eke out an answer from you in relation to subsidies and incentivisation. I am interested to hear what you have to say about that.

Bertie Armstrong: Excuse me for providing a confusing answer. When I talked about something falling foul of the competition rules, I was referring to subsidy. The regulations would be unlikely to fall foul of the competition rules. The natural impulse would be to give people money to encourage them to do something, but we might find that that is difficult. I was suggesting that it would be better to embed in the statute incentives to make fishermen want to adopt certain measures, which would not just have the desired management effect but would benefit the fishermen, too. It is about taking the carrot approach, or modifying the stick approach to include a bit of carrot. I am sorry, but I have forgotten the second part of your question.

Jamie Hepburn: You have answered it. That was much clearer. Thank you.

The Convener: Mike Rumbles wanted to ask a question about what the federation hopes to achieve from the negotiations. Are you content that Peter Peacock's questions explored that?

Mike Rumbles: Yes.

12:15

The Convener: I have taken advice on getting a paper on the Norwegian ban on discards, which I think will be available at the next meeting.

I thank Bertie Armstrong for coming, but I have another question before he goes. You spoke about timing issues and how it is too late to have any input into the negotiations at this end of the year. I am conscious that that means there is also a timing issue for the committee as we look at the matter. Do you think it would be preferable for the committee to look at the common fisheries policy much earlier in the year? I seek your advice—would that be a more sensible way to proceed for us as well as for you?

Bertie Armstrong: Oh yes, please. That would be very helpful. To mitigate the nonsense of

having to take a big fat set of political decisions with enormous complexity over three days at Christmas time, the process of front loading has been applied. When the landscape changes next year, the upshot will be that the science will arrive early. Typically, the science that we are discussing now arrives in October, but next year it will arrive in June. Before that happens, the Commission will make a policy statement about how it expects to deal with the scientific advice. I suggest that the committee might wish to inspect the first output after the scientific advice has arrived, in or around June. At a later point, perhaps in October or November, you would have that first stage of consideration under your belt and you would be better able to target precisely what support we are asking for—

The Convener: That is helpful because it allows us to think of having our last meeting on the subject in June and a further meeting soon after our return from the summer recess.

Des McNulty: Maybe we should not be tied to the science or to the negotiations. It might be worth considering another direction of travel in advance of the annual scientific advice in order to explore some fundamental questions about approach. Rather than wait for the science before we explore the principles, we might let it come in at the back of such considerations.

Bertie Armstrong: Absolutely. At some stage in the new year, after the results of the December council have been digested, you might ask a panel to come and tell you what happened, how it looks, what the prospects are and what should be concentrated on for the rest of the year. A series of meetings almost suggests itself.

The Convener: There is always the matter of the committee work programme, but we will consider your suggestion in December as part of our other discussions.

Peter Peacock: I seek a small point of clarification. Bertie Armstrong emphasised consistently in his comments that he has good contact with Scottish Government officials and that he meets the minister. Do you also have direct access to UK Government ministers as part of the process? Do you feel included in that process?

Bertie Armstrong: Yes. I have to be terribly careful how I say this because ours is an utterly apolitical organisation; we deal with the Government of the day—end of story. If I describe the current situation between Edinburgh and Whitehall as perhaps not lacking in creative tension, one of the outcomes of that has been that access to Whitehall is less difficult. It would be wrong to say that we are sought after, but the industry's grass-roots views are now regarded as being as relevant as they have ever been. I

wonder whether I have set up any hostages to fortune with those comments. The short answer is that at this point in history we do not find it difficult to get to Westminster. The practical manifestation of that is a closer alignment with both the Scottish cabinet secretary and the minister at the monthly fisheries councils. We have been included at the previous two councils.

The Convener: Thank you. We might have reason to be in touch with you again, but thanks for coming this morning.

That ends this morning's business—*[Interruption.]* I am sorry. The clerk has just reminded me of what I said earlier. I had forgotten that I told the other witnesses that I would allow them a brief opportunity to comment on your evidence, Mr Armstrong. Perhaps you will return to the table.

I emphasise that the opportunity is a brief one and I say to the witnesses that they must not feel obliged to take it up. That said, they are all coming to the table. It looks as if they will take up the opportunity, but I do not want this to become an entire secondary session. That is not what it is about.

Karen Gillon: As a new committee member, I have come recently to the debate, but I note that there seems to be very little difference between you on the matter. I think that this is our eighth or ninth year of the December rammy over fishing. Compared with previous years, the process appears to have improved. The two sides—environment and industry, so to speak—appear to be much closer. Is that a fair assessment of where we are?

Mark Ruskell: Yes. I return to what I said in my opening comments. There is now consensus on what needs to be done and the tools that need to be put in place to get our fisheries into a healthier state. Where there may be difference is on how we put the package together—and at what speed—and whether we go for mandatory measures or a voluntary approach. That needs to be developed and resolved.

Bertie Armstrong mentioned mandatory gear measures. The issue is clearly one of carrot and stick—incentives need to be put in place. As Helen McLachlan said, if fisheries go down that route, one of the incentives would be that they could go more easily for Marine Stewardship Council certification. And as Karen Gillon said, if we go down that route the long-term advantage is that our fish stocks will also be in a healthier state.

There are issues, but consensus is emerging. The real issue is how quickly we can get recovery for our fishing communities. Can we put something meaningful on the table this December? We need not only two on-board observers on Scottish

boats, but much greater coverage and understanding of discards. Addressing that crucial issue will make our fisheries more sustainable.

The Convener: Do you have any other comment on what you heard from Bertie Armstrong?

Mark Ruskell: No.

Helen McLachlan: I have a comment on a couple of his points about discards data and information availability, which are critical to how we manage our fisheries. If our approach is one of a suite of measures to reduce discards, we will need much better information on where the discards are occurring. That comes down to the use of on-board observers.

As an environmental community, we point to best practice—100 per cent observer coverage is normal practice in some fisheries. At the very least in Scottish and European fisheries, we want a reference fleet for the fishery with on-board observers who will give us the discard information and, importantly, provide credibility for the general public and stakeholders on what is going on in the fleet. The suite of measures that we say we are moving forward with must deliver what it claims to deliver.

The Convener: Okay. As witnesses have no further comments on Bertie Armstrong's evidence, I thank them for their attendance. If, over the next few days, anything else occurs to anyone, they should not hesitate to get in touch.

Meeting closed at 12:24.

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